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INTRODUCTION

The State of Washington has implemented a major reform in its sentencing of adult felons. Offenders who committed felonies on or after July 1, 1984 are subject to the Sentencing Reform Act, and uniform sentencing guidelines are used by the court to impose penalties. The sentences imposed by the court represent "real time" and thus are determinate sentences. Extensive periods of probation and parole are eliminated. If substantial and compelling circumstances exist, judges can depart from the guidelines and impose an exceptional sentence; sentences outside the range can be appealed by the prosecutor or the defense.

The goal of the sentencing guidelines system is to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences. In addition, offenses involving greater harm to a victim and society result in greater punishment. The guidelines apply equally to offenders in all parts of the state, without discrimination as to any element that does not relate to the crime or a defendant's previous record.

The Sentencing Guidelines Commission developed the initial set of guidelines and continues to advise the legislature on necessary adjustments. Its recommendations must be enacted into law. The Commission consists of 15 voting members appointed by the Governor. These members include four Superior Court judges, two defense attorneys, two prosecutors, three citizens, the directors of three state agencies, and the chief of a local law enforcement agency. Four legislators, two representatives and two senators, are appointed by the leadership of the House and the Senate and serve as nonvoting members.

In order to advise the legislature, the Commission requires accurate information on felony offenders, their crimes, and the sentences imposed under the Sentencing Reform Act. At present, this information is derived from copies of Judgment and Sentence forms sent by the court clerks to the Commission office. Any case involving an exceptional sentence must include written findings of fact and conclusions of law. A computerized database allows the Commission staff to produce descriptive information on sentences and also analyze the prison and jail population consequences of changes to the law.

The Commission also prepares evaluation reports concerning sentencing practices under the Sentencing Reform Act. To obtain copies of these items, please contact the Commission office.

USE OF THIS MANUAL

This manual details the sentencing guidelines adopted by the 1983, 1984, 1986, and 1987 Legislatures. It is intended for use in applying the guidelines to individual cases. The narrative explains each element of the scoring procedures. To make application of these procedures easier, Offense Reference Sheets are included for the most common felonies. Those sheets explain how to score individual felonies and indicate the sentencing options available to the court. Scoring forms are also included for various categories of crimes.

This manual is prepared in a notebook format to allow for updating. Each page has a citation on the lower left corner, indicating the month and year it was produced.

This edition of the manual is updated to reflect the 1987 Sentencing Reform Act amendments (Chapters 131, 187, 188, 224, 402, 456, and 458, Laws of 1987). Manual users should retain earlier editions of this manual for guidance on offenses committed prior to July 1987.

The appendices include a summary of appellate decisions interpreting the Sentencing Reform Act. Decisions announced prior to August 1987 are included.

If you wish to receive notification of future changes to the manual, please fill out the form in the front of the manual. The Commission staff actively solicits comments and suggestions on ways to improve this manual.

If you have questions or problems in applying the guidelines, please contact the Commission office during regular business hours (8 a.m. to 5 p.m., Monday through Friday). The Commission staff will calculate presumptive sentence ranges if sufficient information on the offense(s) of conviction and criminal history are provided. Copies of minutes from Commission meetings are available at a small charge for those interested in researching Commission and legislative intent.

Those interested in a comprehensive legal analysis of the Sentencing Reform Act are advised to read Sentencing in Washington by David Boerner. This publication is available through Butterworth Legal Publishers.

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SECTION I. SENTENCING GUIDELINES

This chapter explains the rules for applying the sentencing guidelines to felony crimes **committed after July 25, 1987**. The instructions cover the following:

- Offense Seriousness Level
- Offender Score
- Standard Sentence Range
- Sentencing Options
- Penalty and Modification Hearing
- Discharge and Vacation of Conviction Record

STEP 1 - DETERMINING THE OFFENSE SERIOUSNESS LEVEL

Determine the Offense Seriousness Level by the offense of conviction. For example, if an offender was charged with Second Degree Robbery but pleaded guilty or was tried and convicted of First Degree Theft, the Seriousness Level is determined by the First Degree Theft conviction.

The Seriousness Level is measured on the vertical axis of the Sentencing Guidelines Grid. (See Table 1, page I-2.) RCW 9.94A.320 lists the crimes included within each Seriousness Level (See Table 2, page I-3.) Felony offenses are divided into fourteen levels of seriousness, ranging from low (Level I) to high (Level XIV). Offenses in the same level are considered equivalent in seriousness.

Some felonies rarely charged or recently created by the legislature are not included in the Seriousness Level Table and do not have a standard sentence range; thus no sentence calculations are necessary. Page I-27 describes the sentencing options for unranked crimes.

(1)

RCW 9A.310
TABLE I
SENTENCING GRID

SERIOUSNESS
LEVEL

OFFENDER SCORE

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

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XIV Aggravated Murder 1 (RCW 10.95.020)
- XIII Murder 1 (RCW 9A.32.030)
Homicide by Abuse (RCW 9A.32.____)
- XII Murder 2 (RCW 9A.32.050)
- XI Assault 1 (RCW 9A.36.010)
- X Kidnapping 1 (RCW 9A.40.020)
Rape 1 (RCW 9A.44.040)
Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))
Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)
Leading organized crime (RCW 9A.82.060(1)(a))
- IX Robbery 1 (RCW 9A.56.200)
Manslaughter 1 (RCW 9A.32.060)
Statutory Rape 1 (RCW 9A.44.070)
Explosive devices prohibited (RCW 70.74.180)
Endangering life and property by explosives with threat to human being (RCW 70.74.270)
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a))
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)
Rape 2 (RCW 9A.44.050)
Promoting Prostitution 1 (RCW 9A.88.070)
Selling heroin for profit (RCW 69.50.410)
- VII Burglary 1 (RCW 9A.52.020)
Vehicular Homicide (RCW 46.61.520)
Introducing Contraband 1 (RCW 9A.76.140)
Statutory Rape 2 (RCW 9A.44.080)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- VI Bribery (RCW 9A.68.010)
Manslaughter 2 (RCW 9A.32.070)
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
 - Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
 - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b), (c), and (d))
 - Incest 1 (RCW 9A.64.020(1))
 - Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
 - Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))
 - Intimidating a Judge (RCW 9A.72.160)
- V
- Rape 3 (RCW 9A.44.060)
 - Kidnapping 2 (RCW 9A.40.030)
 - Extortion 1 (RCW 9A.56.120)
 - Incest 2 (RCW 9A.64.020(2))
 - Perjury 1 (RCW 9A.72.020)
 - Extortionate Extension of Credit (RCW 9A.82.020)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
 - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
 - Rendering Criminal Assistance 1 (RCW 9A.76.070)
 - Criminal Mistreatment 1 (RCW 9A.42.020)
- IV
- Robbery 2 (RCW 9A.56.210)
 - Assault 2 (RCW 9A.36.020)
 - Escape 1 (RCW 9A.76.110)
 - Arson 2 (RCW 9A.48.030)
 - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
 - Malicious Harassment (RCW 9A.36.080)
 - Wilful Failure to Return from Furlough (RCW 72.66.060)
 - Hit and Run -- Injury Accident (RCW 46.52.020(4))
 - Vehicular Assault (RCW 46.61.522)
 - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))
 - Influencing Outcome of Sporting Event (RCW 9A.82.070)
 - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080(1) and (2))
 - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III
- Statutory Rape 3 (RCW 9A.44.090)
 - Extortion 2 (RCW 9A.56.130)
 - Unlawful Imprisonment (RCW 9A.40.040)
 - Assault 3 (RCW 9A.36.030)
 - Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
 - Harassment (RCW 9A.46.020)
 - Promoting Prostitution 2 (RCW 9A.88.080)
 - Wilful Failure to Return from Work Release (RCW 72.65.070)
 - Introducing Contraband 2 (RCW 9A.76.150)
 - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Escape 2 (RCW 9A.76.120)
Perjury 2 (RCW 9A.72.030)
Intimidating a Public Servant (RCW 9A.76.180)
Tampering with a Witness (RCW 9A.72.120)
Manufacture, deliver, or possess with intent to deliver
marijuana (RCW 69.50.401(a)(1)(ii))
Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
Theft of Livestock 1 (RCW 9A.56.080)
Criminal Mistreatment 2 (RCW 9A.42.030)

II Malicious Mischief 1 (RCW 9A.48.070)
Possession of Stolen Property 1 (RCW 9A.56.150)
Theft 1 (RCW 9A.56.030)
Theft of Livestock 2 (RCW 9A.56.080)
Burglary 2 (RCW 9A.52.030)
Possession of controlled substance that is either heroin or
narcotics from Schedule I or II (RCW 69.50.401(d))
Create, deliver, or possess a counterfeit controlled substance
(RCW 69.50.401(b))
Computer Trespass 1 (RCW 9A.52.110)

I Theft 2 (RCW 9A.56.040)
Possession of Stolen Property 2 (RCW 9A.56.160)
Forgery (RCW 9A.60.020)
Taking a Motor Vehicle Without Permission (RCW 9A.56.070)
Vehicle Prowl 1 (RCW 9A.52.095)
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
Malicious Mischief 2 (RCW 9A.48.080)
Reckless Burning 1 (RCW 9A.48.040)
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
False Verification for Welfare (RCW 74.08.055)
Forged Prescription (for a Legend Drug) (RCW 69.41.020)
Forged Prescription for a Controlled Substance (RCW 69.50.403)
Possess Controlled Substance that is a Narcotic from Schedule
III, IV, or V or Nonnarcotic from Schedule I-V
(RCW 69.50.401(d))

STEP 2 - DETERMINING THE OFFENDER SCORE

The Offender Score is measured on the horizontal axis of the Sentencing Guidelines Grid. An offender can receive anywhere from 0 to 9+ points on that axis. In general terms, the number of points an offender receives depends on three factors: 1) the number of prior felony criminal convictions; 2) the relationship between any prior offense(s) and the current offense of conviction; and 3) the presence of multiple prior or current convictions.

The following discussion covers calculation of the Offender Score. Included in this discussion are how to collect criminal history, how to score history, and how to score multiple prior convictions.

Criminal History Collection

RCW 9.94A.030(8) defines criminal history to include the defendant's prior adult convictions in this state, federal court, and elsewhere, as well as adjudications in juvenile court if certain tests are met.

Adult Criminal History: The Criminal Justice Information Act (RCW 10.98) established the Washington State Patrol Identification and Criminal History Section as the primary source of information on state felony conviction histories (see page V-73). After filing charges, prosecutors contact this section for an offender's Washington criminal history. In this act, the judge is directed to ensure the felony defendant has been fingerprinted and an arrest and fingerprint form has been transmitted to the Washington State Patrol (RCW 10.98.050(2)). For out-of-state or federal criminal history information, prosecutors need to contact the Federal Bureau of Investigation for referral to the appropriate sources.

When gathering an offender's criminal history, focus on felony convictions. With one exception, misdemeanors are not calculated into the Offender Score. This exception is for current convictions of felony traffic offenses* where serious traffic offenses are included in the Offender Score.

*Vehicular Homicide, Vehicular Assault, Hit and Run-Injury Accident, and Attempting to Elude a Pursuing Police Vehicle.

Collect information, if it is available, on whether an offender has participated in a program of deferred prosecution for a felony offense. This information is likely only to be available through county records. Persons who have participated in such a program do not meet the definition of a first-time offender (RCW 9.94A.030(15)).

A conviction is defined to include a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty. A prior conviction is defined as one existing before the date of the sentencing for the offense for which the Offender Score is being computed. Convictions entered or sentenced on the same date as the conviction for which the Offender Score is being computed are deemed "other current offenses" within the meaning of RCW 9.94A.400.

All prior adult felony convictions are counted separately, except:

- A) Prior adult offenses found, under RCW 9.94A.400(1)(a) to encompass the same criminal conduct. These are to be counted as one offense, the offense that yields the highest Offender Score.
- B) Multiple prior convictions for offenses committed before July 1, 1986. Priors served concurrently are to be counted as one offense, using the conviction for the offense that yields the highest Offender Score.
- C) For other prior convictions served concurrently, the current sentencing court shall determine whether those offenses shall be counted as one or separate offenses. If counted as one offense, the offense that yields the highest Offender Score is to be used.

Prior convictions for anticipatory offenses (criminal attempt, solicitation, or conspiracy), are to be scored the same as if they were convictions for completed offenses. If the present conviction is an anticipatory offense, each prior conviction counts the same as it would if the present conviction were for a completed offense.

RCW 9.94A.030(8)(a) stipulates that where it is known, criminal history for a defendant shall include the length and terms of any probation as well as whether the defendant has been incarcerated and the length of incarceration. This information is often collected as part of the Presentence Investigation Report.

Juvenile Criminal History: Some, but not all, juvenile history is to be included as part of the Offender Score. To be included, the priors must meet the criteria established in RCW 9.94A.030(8)(b) and 9.94A.330(3):

- A) The juvenile offense must have been a felony or a serious misdemeanor traffic offense on a felony traffic current crime;
- B) The conduct must have resulted in an adjudication of guilt in juvenile court (i.e., diversions do not count);
- C) The defendant must have been 15 years of age or older when the juvenile offense was committed; and
- D) The defendant must have been less than 23 when the current offense of conviction was committed, except for prior juvenile Class A adjudications which are always included in the Offender Score.

RCW 13.50.050(9) provides that after a charge has been filed, juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to the prosecution and defense counsel, subject to the rules of discovery. RCW 13.50.050(15) provides that the sealing of a juvenile record of any Class A adjudication is nullified if there is a subsequent adult felony conviction.

It is necessary to determine the date of adjudication for juvenile offenses. All offenses adjudicated on the same date count as one offense. Use the offense which yields the highest Offender Score as criminal history in these cases. As is the case with adult history, in most instances this offense will be the one with the highest Seriousness Level.

"Washout" of Certain Prior Felonies: In certain instances, prior felony convictions are not calculated into the Offender Score because they meet the following "washout" rules found in RCW 9.94A.360(2):

- A) Prior Class B felony convictions are not included if: 1) the offender has spent ten years in the community and 2) has not been convicted of any felonies since the most recent of either the last date of release from confinement pursuant to a felony conviction (including full-time residential treatment), or the day the sentence was entered.
- B) Prior Class C felony convictions and serious traffic convictions* are not included if the offender has spent five years in the community and has not been convicted of any felonies since the most recent of either the last date of release from confinement pursuant to a felony conviction (including full-time residential treatment), or the day the sentence was entered.
- C) Once a crime meets the washout rules, it is always washed out. The washout test can be met by any consecutive period of crime-free behavior.

The Sentencing Reform Act allows the record of conviction to be vacated under certain conditions. RCW 9.94A.230 provides that prior records of convictions which have been vacated "shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction." This variation does not affect or prevent the use of an offender's prior conviction in a later criminal prosecution.

The eligibility rules for vacation of conviction record are similar to the wash out rules. Since the wash out rules are automatic and do not require court action, an offense will wash out before formal record vacation occurs. (The main distinction between vacation of record of conviction and wash out is that after vacation, an offender can indicate on employment forms that he or she was not convicted of that crime.)

*RCW 9.94A.030(20) defines serious traffic offenses as: Driving While Intoxicated, Actual Physical Control While Intoxicated, Reckless Driving, and Hit-and-Run an Attended Vehicle.

Federal, Out-of-State or Foreign Convictions: For a prior federal, out-of-state or foreign conviction, compare the elements of the offense in that jurisdiction to Washington State laws to determine how to score the offense (RCW 9.94A.360(2)). Judicial decisions on the comparability of non-Washington convictions will occur at the sentencing hearing.

Scoring Criminal History

Once the relevant prior convictions have been identified, the criminal history portion of the Offender Score can be calculated. The rules for scoring of prior convictions are contained in RCW 9.94A.360 (Section II, page II-39) and displayed in RCW 9.94A.330 (Section II, page II-37).

To make application of these rules easier, the Offense Reference Sheets and Scoring Forms indicate the correct number of points for each prior conviction depending on the current offense. To correctly use these forms, an understanding of the criminal history rules is necessary. For example, the forms do not repeat the "wash out" rules or the statutory requirements for juvenile history.

The Sentencing Reform Act contains some conflicts in the scoring of criminal history. The 1986 and 1987 amendments to Chapter 9.94A included some errors where the definitions' section (RCW 9.94A.030) and the offender scoring rules' section (RCW 9.94A.360) were amended, but the amendment was not carried through to other pertinent sections of the law. The conflicts in the law are as follows:

- Vehicular Assault was designated as a violent offense in RCW 9.94A.030 and the Offender Score Matrix was amended to indicate that prior Vehicular Assaults and Homicides score two points if the current offense is a felony traffic offense. The language in RCW 9.94A.360(11), however, provided that for current felony traffic offenses, only prior Vehicular Homicides score two points (1986 session).

- Homicide by Abuse was designated as a serious violent offense in RCW 9.94A.030; however, it was not added to the list of serious violent offenses in RCW 9.94A.360(9) for scoring purposes (1987 session).

- RCW 9.94A.360(14) was amended to count all prior convictions in the offender score calculations for First and Second Degree Escape. The Offender Score Matrix (RCW 9.94A.330) was not similarly amended (1987 session).

The individual Offense Reference Sheets in Section III describe how these conflicts influence individual crimes. Where there is a conflict between the written law and the matrix, the written law dictates the scoring rules on the reference sheet, but an asterisk is used to alert practitioners to the conflict.

The Commission will recommend amendments to the 1988 Legislature to correct these conflicts.

Scoring Multiple Current Convictions

Multiple convictions can also influence the Offender Score. Keep in mind that for multiple current offenses, separate sentence calculations are necessary for each offense because the law requires that each receive a separate sentence (RCW 9.94A.400).

Multiple Offense Scoring Steps:

A) If the current offenses do not include three or more serious violent offenses* arising from separate and distinct criminal conduct, apply RCW 9.94A.400(1)(a):

- Score each offense.
- For each offense, score the prior adult and juvenile convictions. Also, score the other current offenses in the section of the scoring form entitled "Other Current Offenses."

*Serious Violent Offenses: First Degree Murder, Homicide by Abuse, Second Degree Murder, First Degree Assault, First Degree Kidnapping, First Degree Rape or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies.

- The court can find that some or all of the current offenses encompass the same criminal conduct and are to be counted as one crime. "Same criminal conduct" means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. (This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle.)
- Convictions entered or sentenced on the same date as the conviction for which the Offender Score is being computed are scored as "other current offenses."

B) If the current offenses include three or more serious violent offenses arising from separate and distinct criminal conduct, apply RCW 9.94A.400(1)(b):

- Score each offense.
- Identify the serious violent offense with the highest Seriousness Level. Calculate the sentence for that crime using the offender's prior adult and juvenile convictions. Do not score the other current offenses as part of the Offender Score.
- Score all remaining serious violent current offenses, but for those offenses, calculate the offender's criminal history as zero.
- For any current offenses which are not serious violent offenses, score according to the rules in A.

Example: An offender was convicted of one count of First Degree Theft and one count of Forgery. Both offenses arose from separate and distinct criminal conduct. Her criminal history consisted of one conviction for Second Degree Burglary. In this case, the rules in RCW 9.94A.400(1)(a) apply and the theft and forgery must be

separately scored. The prior burglary and the current forgery are included in the Offender Score for the theft, resulting in an Offender Score of 2 and a sentence range of 3 to 9 months. The prior burglary and the current theft are included in the Offender Score for the forgery, resulting in an Offender Score of 2 and a sentence range of 2 to 5 months. The sentence for each offense would run concurrently.

Example: An offender was convicted of one count of Second Degree Theft and one count of Second Degree Possession of Stolen Property. The court found that both counts encompassed the same criminal conduct and the offender had no criminal history. In this case, the other current offense is not counted in the Offender Score because RCW 9.94A.400(1)(a) stipulates that if some or all of the current offenses are found to encompass the same criminal conduct, then those current offenses shall be counted as one crime. Therefore, the theft and possession would both be scored with Offender Scores of zero, with the sentence range for each being 0 to 60 days. The sentence for each offense would run concurrently.

Example: An offender was convicted of two counts of First Degree Rape and one count of First Degree Assault. These offenses, all serious violent, arose from separate and distinct criminal conduct. His criminal history consisted of one conviction for Third Degree Assault. The scoring for this offender follows the rules in RCW 9.94A.400(1)(b). First, the crime with the highest Seriousness Level must be identified and scored. Since First Degree Assault is more serious (Level XI) than First Degree Rape (Level X), the First Degree Assault is scored, counting the prior Third Degree Assault as adult criminal history. This calculation would result in a sentence range of 69 to 92 months.

Next, the two First Degree Rape convictions are scored using a criminal history of zero. These calculations result in two sentence ranges of 51 to 68 months. These three sentences would run consecutively.

STEP 3 - DETERMINING THE STANDARD SENTENCE RANGE

Sentencing Grid

Once the Offense Seriousness Level and Offender Score have been calculated, the preliminary standard sentence range can be established.

Determine the standard sentence range by referring to the Sentencing Grid (RCW 9.94A.310, Table 1, page I-2). For each current offense, the intersection of the column defined by the Offender Score and the row defined by the Offense Seriousness Level determines the standard sentence range. Alternatively, the same range is produced for individual offenses on the Offense Reference Sheets (Section III). The court can sentence anywhere within that range.

Deadly Weapon Increase

For specified crimes, if the court makes a finding of fact or the jury returns a special verdict that the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, the standard sentence range shall be increased.

Deadly weapon is defined in RCW 9.94A.125 as: "an implement or instrument which has the capacity to inflict death and from the manner in which it is used, is likely to produce or may easily and readily produce death. The following instruments are included in the term deadly weapon: Blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas."

The crimes eligible for a deadly weapon increase and the specific additions to the standard sentence range are as follows:

<u>Crime</u>	<u>Deadly Weapon Increase</u>
First Degree Kidnapping	24 months
First Degree Rape	24 months
First Degree Robbery	24 months
First Degree Burglary	18 months
Second Degree Assault	12 months
First Degree Escape	12 months
Second Degree Kidnapping	12 months
Second Degree Burglary (if not a Dwelling)	12 months
Drug Offense *	12 months

*Drug offense is defined as any felony violation of Chapter 69.50 RCW except Possession of a Controlled Substance (RCW 69.50.401(d)) or Forged Prescription for a Controlled Substance (RCW 69.50.403).

The deadly weapon increase also applies to anticipatory offenses (attempt, conspiracy, and solicitation to commit a crime).

Additional time for a deadly weapon increase is added to the entire presumptive sentence range after it has been calculated based on the particular Seriousness Level and Offender Score (RCW 9.94A.370).

Attempt, Conspiracy, and Solicitation

For persons convicted of an anticipatory offense of criminal attempt, solicitation, or conspiracy under Chapter 9A.28 RCW, the standard sentence range is determined by using the Offender Score and Offense Seriousness Level to determine the standard sentence range, then multiplying that range by 75 percent (RCW 9.94A.410). To simplify the calculations, refer to the Anticipatory Offense Grid (Table 3, next page).

TABLE 3
ANTICIPATORY OFFENSE GRID
 (75% of the range for completed offenses)

Seriousness Level	OFFENDER SCORE (in months)									
	0	1	2	3	4	5	6	7	8	9
XIII	180.00	187.50	195.75	203.25	210.75	218.25	234.00	253.50	277.50	308.25
XII	92.25	100.50	108.00	115.50	123.75	131.25	146.25	162.00	192.75	223.50
XI	46.50	51.75	57.75	63.75	69.75	75.00	96.75	104.25	119.25	135.00
X	38.25	42.75	46.50	50.25	54.00	57.75	73.50	81.00	96.75	111.75
IX	23.25	27.00	30.75	34.50	38.25	42.75	57.75	65.25	81.00	96.75
VIII	15.75	19.50	23.25	27.00	30.75	34.50	50.25	57.75	65.25	81.00
VII	11.25	15.75	19.50	23.25	27.00	30.75	42.75	50.25	57.75	65.25
VI	9.02	11.25	15.75	19.50	23.25	27.00	34.50	42.75	50.25	57.75
V	4.50	9.02	9.75	11.25	16.50	24.75	30.75	38.25	46.50	54.00
IV	2.25	4.50	9.02	9.75	11.25	16.50	24.75	32.25	39.75	47.25
III	0.75	2.25	3.00	6.75	9.02	12.75	16.50	24.75	32.25	38.25
II	0.00	1.50	2.25	3.00	9.02	10.50	12.75	16.50	24.75	32.25
I	0.00	0.00	1.50	1.50	2.25	3.00	9.02	10.50	12.75	16.50
XIII	240.00	249.75	260.25	270.75	280.50	291.00	312.00	337.50	369.75	411.00
XII	123.00	133.50	144.00	153.75	164.25	174.75	195.00	216.00	256.50	297.75
XI	61.50	69.00	76.50	84.75	92.25	99.75	128.25	138.75	159.00	180.00
X	51.00	56.25	61.50	66.75	72.00	76.50	97.50	108.00	128.25	148.50
IX	30.75	36.00	40.50	45.75	51.00	56.25	76.50	87.00	108.00	128.25
VIII	20.25	25.50	30.75	36.00	40.50	45.75	66.75	76.50	87.00	108.00
VII	15.00	20.25	25.50	30.75	36.00	40.50	56.25	66.75	76.50	87.00
VI	10.50	15.00	20.25	25.50	30.75	36.00	45.75	56.25	66.75	76.50
V	9.00	10.50	12.75	15.00	21.75	32.25	40.50	51.00	61.50	72.00
IV	6.75	9.00	10.50	12.75	15.00	21.75	32.25	42.75	52.50	63.00
III	2.25	6.00	9.00	9.00	12.00	16.50	21.75	32.25	42.75	51.00
II	2.25	4.50	6.75	9.00	10.50	13.50	16.50	21.75	32.25	42.75
I	1.50	2.25	3.75	4.50	6.00	9.00	10.50	13.50	16.50	21.75

Note: The "low end" indicates the bottom end of the standard range, and the "high end" category indicates the high end of the range. Determine the Seriousness Level and Offender Score, then find the low end of the range from the first grid and the high end from the second.

STEP 4 - DETERMINING THE SENTENCING OPTIONS

The sentencing options available to the court vary depending on the offender's criminal history and the crime(s) of conviction.

The court must impose a determinate sentence in every case. A determinate sentence is defined as "a sentence which states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution" (RCW 9.94A.030(10)). The only exception to this law is for sentences imposed under the Special Sexual Offender Sentencing Option (RCW 9.94A.120(7)(a)), which allows suspended sentences.

This section describes the available sentencing options. These options are also displayed in a matrix format in the Summary of Sentencing Options (Table 4, next page). The Offense Reference Sheets also indicate the sentencing options available to the court for individual felonies.

**TABLE 4
SUMMARY OF SENTENCING OPTIONS**

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
<p>Sentence within the standard sentence range. RCW 9.94A.120(1)</p>	<p>Offender convicted of crime listed in the Seriousness Level Table (RCW 9.94A.320).</p>	<p>Court imposes a determinate sentence within the standard sentence range, taking into account the crime(s) of conviction and the offender's criminal history.</p>	<ul style="list-style-type: none"> ● Sentencing grid represents total confinement time. For certain offenders, total confinement can be converted to partial confinement or community service (see Alternative Conversion option). ● For certain crimes, a deadly weapon special verdict/finding increases the standard sentence range. (RCW 9.94A.125, RCW 9.94A.310, RCW 9.94A.370). ● For all confinement sentences of one year or less, the court may impose up to one year of community supervision. (RCW 9.94A.380).
<p>Sentence for unranked crimes. RCW 9.94A.120(6)</p>	<p>Offender convicted of crime not listed in the Seriousness Level Table (RCW 9.94A.320).</p>	<p>Court imposes a determinate sentence.</p>	<ul style="list-style-type: none"> ● Sentence may include not more than one year of confinement, community service work, restitution, a term of community supervision not to exceed one year, and/or a fine. ● Any other sentence constitutes an exceptional sentence.
<p>Exceptional sentence. RCW 9.94A.120(2) (3), and (13)</p>	<p>Any offender.</p>	<p>Court considers the purpose of the Sentencing Reform Act and finds that there are substantial and compelling reasons justifying an exceptional sentence. Court must set forth its reasons in written findings of fact and conclusions of law.</p>	<ul style="list-style-type: none"> ● Sentence cannot exceed statutory maximum (RCW 9A.20.021); ● Four mandatory minimums exist: <ul style="list-style-type: none"> a) Aggravated Murder; death penalty or life without parole. (RCW 10.95.030) b) First Degree Murder; not less than 20 years total confinement (RCW 9.94A.120(4))

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
<p>c) First Degree Assault where offender used force or means likely to result in death or intended to kill the victim; not less than five years total confinement. (RCW 9.94A.120(4))</p>		<p>Court imposes a determinate sentence.</p>	
<p>d) First Degree Rape; not less than three years total confinement. (RCW 9.94A.120(4))</p>			
<p>First-time Offender Waiver. RCW 9.94A.120(5)</p>	<p>Offender convicted of a nonviolent felony who has not previously been convicted of a felony and has not participated in a program of deferred prosecution of a felony.</p> <p>No one convicted of a sex offense is eligible, nor are persons convicted of manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug.</p>	<p>Court waives imposition of sentence within the sentence range and imposes a determinate sentence under this provision.</p> <p>Sentences imposed under the First-time Offender Waiver cannot be appealed by the prosecutor or defendant.</p>	<ul style="list-style-type: none"> ● Up to 90 days of confinement in a county facility; ● A requirement that the offender refrain from committing new offenses; and ● Up to two years of community supervision, including crime-related prohibitions and requirements that the offender: <ul style="list-style-type: none"> a) Devote time to a specific employment or occupation; b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense; c) Pursue a prescribed secular course of study or vocational training;

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
			<ul style="list-style-type: none"> d) Remain within prescribed geographical boundaries and notify the court or the Community Corrections Officer of any change in the offender's address or employment; e) Report as directed to the court and a Community Corrections Officer; or f) Pay a fine, make restitution and/or accomplish some community service work.
<p>Alternative Conversion. RCW 9.94A.380</p>	<p>Offender sentenced to term of one year or less. Violent offenders are only eligible for conversion to partial confinement.</p>	<p>Court orders a substitute for some portion or all of a total confinement sentence.</p>	<ul style="list-style-type: none"> • One day of partial confinement can substitute for one day of total confinement. (Partial confinement defined as eight hours of confinement, typically work release). • For nonviolent offenders, eight hours of community service can substitute for one day of total confinement. This conversion is limited to 240 hours or 30 days; any remaining portion of the sentence must be served in total or partial confinement.
<p>Sexual Offender Sentencing Options. RCW 9.94A.120(7)(a)</p> <ul style="list-style-type: none"> • Special Sexual Offender Sentencing Alternative 	<p>Offender convicted of sex offenses except First Degree Rape or Second Degree Rape, with no prior felony sex offenses. Sentence must be for less than six years of confinement</p>	<p>Prior to the sentencing hearing, the court may order an examination to determine offender's amenability to treatment. After receiving reports, court determines whether offender and society may benefit from use of this alternative.</p>	<ul style="list-style-type: none"> • Order up to six months of confinement, not to exceed sentence range of confinement; • Order crime-related prohibitions; • Place the offender on supervision for up to two years; • Sentence conditions may include the following requirements:

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
		<p>If court elects this option, court imposes sentence within the sentence range. Court may then suspend execution of the sentence.</p> <p>For violations, court may revoke the suspension and order execution of the sentence.</p> <p>If the suspended sentence is revoked, all confinement time served during community supervision is credited to the offender.</p>	<p>a) Devote time to a specific employment or occupation;</p> <p>b) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;</p> <p>c) Remain within prescribed geographical boundaries and notify the court or the Community Corrections Officer of any change in the offender's address or employment;</p> <p>d) Report as directed to the court and a Community Corrections Officer;</p> <p>e) Pay a fine, make restitution, accomplish some community service work, or any combination thereof; or</p> <p>f) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.</p>
<p>Sex Offender Treatment at DSHS Facility RCW 9.94A.120(7)(b)</p>	<p>Option is available until June 30, 1993.</p> <p>Offender convicted of sex offense committed before July 1, 1987 with sentence of confinement greater than one year and less than six years.</p>	<p>The court may order offender committed for up to 30 days to DSHS to determine the offender's amenability to treatment.</p>	<ul style="list-style-type: none"> Order term of confinement be served in sexual offender program determined by DSHS.

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
Sex Offender Treatment at Department of Corrections RCW 9.94A.120(7)(c)	Offender convicted of sex offense committed on or after July 1, 1987 with sentence of confinement greater than one year and less than six years.	<p>The court may, on its own motion, or on motion of state or defendant, request the Department of Corrections to evaluate offender's amenability to treatment.</p> <p>The department may place offender in a treatment program within a correctional facility.</p>	<ul style="list-style-type: none"> ● Except for an offender convicted of first or second degree rape, if offender successfully completes program before term of confinement expires, the department may request court to convert balance of confinement to community supervision. ● Crime-related prohibitions and requirements can be ordered, including:
		<p>If report indicates the offender is amenable to treatment, the court may order term of confinement to be served in sexual offender program determined by DSHS.</p>	<ul style="list-style-type: none"> ● If offender completes treatment before sentence is expired, court may: ● Convert balance to community supervision.
		<p>For violations of treatment program or escape, DSHS refers offender back to court. Court must commit offender to DOC to serve balance of term.</p>	<ul style="list-style-type: none"> ● Order crime - related prohibitions. ● Sentence conditions may include the following requirements:
		<p>For violations of community supervision, court may order offender to serve balance of term in DOC confinement.</p>	<ol style="list-style-type: none"> a) Devote time to specific employment or occupation; b) Remain within prescribed geographical boundaries and notify the court or the Community Corrections Officer of any change in the offender's address or employment; c) Report as directed to the court and a Community Corrections Officer; d) Undergo available outpatient treatment.

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
			<ul style="list-style-type: none"> (a) Devote time to a specific employment or occupation; (b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment; (c) Report as directed to the court and a community corrections officer; (d) Undergo available outpatient treatment.
<ul style="list-style-type: none"> • If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the Department of Corrections. 			
Restitution, fines, court costs, and other monetary obligations. RCW 9.94A.140 RCW 9.94A.120(9) and (14)	Any offender.	Court must specify a reasonable manner and time in which a fine or restitution shall be paid. All monetary payments shall be ordered paid by no later than ten years after the date of conviction. Court shall order restitution whenever felony results in injury to person or damage or property loss. If restitution is not ordered, extraordinary circumstances to	<ul style="list-style-type: none"> • Fines can be ordered by the court within the following ranges: <ul style="list-style-type: none"> Class A felonies \$0-50,000 Class B felonies \$0-20,000 Class C felonies \$0-10,000 • Restitution can also be ordered, based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury.

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
		to be included in record by court.	Amount cannot exceed double the amount of the offender's gain or the victim's loss.
			<ul style="list-style-type: none"> ● Ten years of supervision allowed to collect restitution, regardless of expiration of terms of community supervision and the crime's statutory maximum.
			<ul style="list-style-type: none"> ● Court may also require an offender to make payments for: <ol style="list-style-type: none"> a) crime victims' compensation assessment; b) court costs; c) defense attorney costs; d) probationer assessments; e) county or interlocal drug fund; and f) other payments as provided by law.

Sentence Modification and Penalty for Noncompliance.	Offender who violates any sentence condition or requirement.	Court requires offender to show cause why punishment should not be imposed.	<ul style="list-style-type: none"> ● If court finds that violation has occurred, it may: <ol style="list-style-type: none"> a) Order offender confined for not more than 60 days for each violation; and b) Order term of partial confinement converted to total confinement.
RCW 9.94A.200	Court can issue summons or arrest warrant for offender's appearance.		

SENTENCE OPTION	ELIGIBILITY	PROCEDURE	CONDITIONS
			<ul style="list-style-type: none"> Any time served in confinement awaiting hearing shall be credited against any confinement order. If court finds that the violation was not wilful, it may modify its previous order regarding fine payment or other monetary payments and community service obligations.
Discharge upon Completion of Sentence. RCW 9.94A.220	Offender who completes sentence requirements.	Department of Corrections notifies court that offender has completed requirements. Court gives offender a Certificate of Discharge.	<ul style="list-style-type: none"> Certificate of Discharge restores all civil rights; it is not based upon a finding of rehabilitation. Offender's prior record can still be used as part of criminal history for later offenses.
Vacation of offender's record of conviction. RCW 9.94A.230	Offender who has been discharged may apply to the court for vacation of the record of conviction. An offender is <u>not</u> eligible if:	Court clears record of conviction by:	<ul style="list-style-type: none"> Once a record is vacated, it cannot be included in an offender's criminal history in subsequent convictions. Offender is released from all penalties and disabilities.
a) There are any criminal charges pending in any court;	b) The conviction was for a violent offense;	a) permitting the offender to withdraw the guilty plea and enter a plea of not guilty; or b) setting aside the verdict of guilty; and c) dismissing the information or indictment.	<ul style="list-style-type: none"> For all purposes, including employment applications, offender may state that he or she has never been convicted of that crime.
c) The offense was a Class B felony and less than 10 years have passed; or	d) The offense was a Class C felony and less than 5 years have passed.		<ul style="list-style-type: none"> Vacation of record does not affect or prevent use of offender's prior conviction in later criminal prosecution.

Standard Sentence Range

The Sentencing Grid determines the standard sentence range for the most commonly charged felonies. RCW 9.94A.420 states that if the presumptive sentence duration given in the Sentencing Grid exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence.

The ranges in the Sentencing Grid are expressed in terms of total confinement. A term of confinement of one year and one day (12+) is to be served in a state facility or institution. A term of one year or less is to be served in a county facility, unless, when combined with other terms, the total time to be served exceeds one year (RCW 9.94A.190). For some offenders, the court can convert total confinement sentences to partial confinement or community service (see the discussion of Alternative Conversions, page I-32).

Offenders with a sentence greater than a year, who also have a sentence less than a year, are to serve the entire period of time in a state institution.

Unranked Crimes

For an offender convicted of a crime without an established Seriousness Level, no standard sentence range applies. In these cases, the court is to impose a determinate sentence which may include not more than one year of confinement, community service work, restitution, a term of community supervision not to exceed one year, and/or a fine. Sentences involving greater than one year of confinement are exceptional sentences and must be justified in writing (RCW 9.94A.120(6)).

First-time Offender Waiver

The court has a statutory alternative to the standard range for certain first-time offenders (RCW 9.94A.120(5)). Offenders are eligible for the First-time Offender Waiver if they:

- Have not been convicted of a violent offense;

- Have not been convicted of manufacture, delivery or possession with intent to manufacture or deliver a schedule I or II narcotic drug;
- Have not been convicted of a sex offense;
- Have not previously been convicted of a felony in this state, federal court, another state or foreign country;
- Have never participated in a program of deferred prosecution for a felony offense (RCW 9.94A.030(12) and 9.94A.120(5)); and
- Have no juvenile adjudication for a felony offense committed after the age of 15. (Juvenile adjudications for felony offenses committed before the age of 15 are not considered previous felony convictions.)

For these offenders, the court is given broad discretion in setting the sentence. Choices available to the court include:

1. Imposing up to 90 days of confinement in a facility operated or utilized under contract by the county;
2. Requiring that the offender refrain from committing new offenses;
3. Requiring up to two years of community supervision which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:
 - Devote time to a specific employment or occupation;
 - Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
 - Pursue a prescribed, secular course of study or vocational training;

- Remain within prescribed geographical boundaries and notify the court or a Community Corrections Officer of any change in the offender's address or employment;
- Report as directed to the court and a Community Corrections Officer; or
- Pay a fine, make restitution, and/or accomplish some community service work.

The court's decision to impose or not impose the First-Time Offender Waiver cannot be appealed by the prosecutor or defendant (RCW 9.94A.210(1)).

Sexual Offender Sentencing Options

Two special sentencing options allow treatment of sexual offenders in the community on an outpatient basis, or on an inpatient basis in a hospital setting or a correctional facility.

Special Sexual Offender Sentencing Alternative: The Special Sexual Offender Sentencing Alternative (SSOSA) provides for a suspended sentence which can include a jail sentence of up to six months and required outpatient or inpatient treatment (RCW 9.94A.120(7)(a)). To be eligible, offenders must:

- Have been convicted of a sex offense (Chapter 9A.44 RCW), Incest (RCW 9A.64.020), or Communication with a Minor for Immoral Purposes (RCW 9.68A.090), not including First or Second Degree Rape; and
- Have had no prior convictions for sexual offenses (Chapter 9A.44 RCW) or Incest (RCW 9A.64.020) or any other felony sexual offenses in this or any other state.

If those criteria are met, the court, on its own motion or on the motion of the state or the defendant, may order an examination to determine if the defendant is amenable to treatment. It is suggested that the examination be conducted by an expert in the area of sex offender treatment.

Once the examination report is received, the court determines whether the defendant and the community will benefit from use of this special sentencing alternative. If that determination is made, the court then imposes a sentence within the standard sentence range. If the sentence is for less than six years of confinement, the court may suspend execution of the sentence and place the offender on community supervision for up to two years. This is the only sentencing option where suspended sentences are possible.

As a condition of the SSOSA sentence, the court may order the defendant to spend up to six months in confinement (not to exceed the standard range of confinement for that offense). The court may also include crime-related prohibitions and requirements that the offender must:

- Devote time to a specific employment or occupation;
- Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;
- Remain within prescribed geographical boundaries and notify the court or the Community Corrections Officer of any change in the offender's address or employment;
- Report as directed to the court and a Community Corrections Officer;
- Pay a fine, make restitution, accomplish some community service work, or any combination thereof; or
- Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

If the offender violates these sentence conditions, the court may revoke the suspension and order execution of the sentence. The 60-day penalty for sentence violation is also an option to the court (see page I-41). All confinement time

served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

Sexual Offender Hospital Treatment: (Available until June 30, 1993) The second option allows treatment at Western or Eastern State Hospital's Sexual Offender Treatment Program. To be eligible, an offender must have been convicted of a felony sexual offense committed before July 1, 1987, and have received a determinate sentence for a confinement term greater than one year but less than six years.

If these criteria are met, the court, on its own motion, or on the motion of the offender or the state, may order the offender committed for up to 30 days to the custody of the Secretary of the Department of Social and Health Services (DSHS) at Eastern or Western State Hospital. The hospital would then evaluate the offender's amenability to treatment at these facilities and report back to the court. If the evaluation cannot begin within 30 days of the court order, the offender is to be transferred to the state for confinement until the evaluation can occur.

If the report indicates the offender is amenable to the treatment program, the court may order that the term of confinement be served at the sexual offender treatment program at the location determined by the Secretary of DSHS. If the offender is not found amenable to the treatment, this option is not available to the court. Offenders accepted into treatment are transferred to the state pending placement in the program.

If an offender escapes from the treatment program, DSHS must refer the matter to the sentencing court.

If an offender does not comply with the treatment program conditions, the Secretary of DSHS may refer the matter to the sentencing court. The court shall then commit the offender to the Department of Corrections for the balance of his or her term of confinement.

If an offender successfully completes the treatment program prior to the expiration of the term of confinement, the court may convert the balance of the

term to community supervision. Crime-related prohibitions may be placed on the offender along with requirements to perform any one or more of the following:

1. Devote time to a specific employment or occupation;
2. Remain within prescribed geographical boundaries and notify the court or the Community Corrections Officer of any change in the offender's address or employment;
3. Report as directed to the court and a Community Corrections Officer;
4. Undergo available outpatient treatment.

If an offender violates any of the community supervision terms, the court may order that the balance of the community supervision term be served in confinement in the custody of the Department of Corrections. The 60-day penalty for sentence violation is also an option to the court (see page I-41).

Sexual Offender Treatment in Prison:

For an offender who commits a felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the court may request that the Department of Corrections evaluate the person's amenability to treatment, and the department may place them in a treatment program within a correctional facility.

If the offender completes a program before the expiration of his sentence, the department may request that the balance of confinement be converted to community supervision (except for offenders convicted of First and Second Degree Rape).

Alternative Conversions

The Sentencing Grid ranges are expressed in terms of total confinement (RCW 9.94A.370). For certain offenders, the court can convert terms of total confinement to partial confinement or community service. This provision allows

courts to take advantage of available alternatives to confinement in cases where it is deemed appropriate.

Conversions are possible for offenders with determinate sentences of one year or less. For nonviolent offenders in this category, the statute directs the court to "consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used."

For eligible offenders (violent and nonviolent), one day of total confinement can be converted to one day of partial confinement. Nonviolent offenders are also eligible for conversion of one day of total confinement to eight hours of community service. This community service conversion, however, is limited to 30 days or 240 hours. If a community service conversion is ordered and the determinate sentence is greater than 30 days, the balance of the term is to be ordered served in total or partial confinement.

Partial confinement sentences may require the offender to serve the time in work release. If the offender violates the rules of the facility or fails to remain employed or enrolled in school, the facility can have the offender transferred to the county detention facility. The offender can then request an administrative hearing. Pending the hearing or in the absence of a request for such a hearing, the offender shall serve the remainder of the term of confinement as total confinement. (RCW 9.94A.180)

Community Supervision

For all sentences of one year or less, including those with alternative conversions, the court may impose up to one year of community supervision to ensure that the terms of the sentence are met. The community supervision begins at the date of release from confinement, unless otherwise ordered by the court. For nonconfinement sentences, the period of community supervision begins on the date that the sentence was entered (RCW 9.94A.380).

Community supervision for up to two years can be ordered with First-time Offender Waiver sentences or sentences for outpatient sexual offender sentences (Special Sexual Offender Sentencing Alternative).

Exceptional Sentences

The standard sentence range is presumed to be appropriate for the typical felony case. However, the law provides that in exceptional cases, the court has the discretion to depart from the standard sentence range and impose an exceptional sentence. RCW 9.94A.120(2) states that the court "may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence."

An exceptional sentence must be a determinate sentence and cannot exceed the statutory maximum for the crime. In the case of the four crimes with statutory mandatory minimum sentences (Aggravated First Degree Murder, First Degree Murder, First Degree Assault and First Degree Rape), a departure sentence cannot go below these minimum terms of confinement (RCW 9.94A.120(4)).

If the court imposes a sentence outside a standard range, it must set forth the reasons for its decision in written findings of fact and conclusions of law (RCW 9.94A.120(3)). These procedures must also be followed if the court departs from the consecutive/concurrent policy in RCW 9.94A.400(1) and (2). Any departures can be appealed to the Court of Appeals by the defendant or the prosecutor.

The statute provides a list of illustrative factors the court may consider in deciding whether to impose an exceptional sentence. These mitigating and aggravating circumstances for exceptional sentences are provided as examples to the court and are not intended to be exclusive reasons for departures.

1. Mitigating Circumstances for Exceptional Sentences:

- a. To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.
- b. Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

- c. The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.
- d. The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.
- e. The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).
- f. The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.
- g. The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

2. Aggravating Circumstances for Exceptional Sentences:

- a. The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.
- b. The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.
- c. The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:
 - i. The current offense involved multiple victims or multiple incidents per victim;
 - ii. The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

- iii. The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;
 - iv. The defendant used his or her position of trust, confidence or fiduciary responsibility to facilitate the commission of the current offense.
- d. The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify an offense as a major VUCSA:
- i. The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or
 - ii. The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or
 - iii. The current offense involved the manufacture of controlled substances for use by other parties; or
 - iv. The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or
 - v. The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or
 - vi. The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

- e. The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of 18 years manifested by multiple incidents over a prolonged period of time; or
- f. The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

Restitution

The court shall order restitution whenever a felony results in injury to person or damage or property loss. If restitution is not ordered, the court is to indicate the extraordinary reasons on the record (RCW 9.94A.120(14)).

Restitution can also be ordered to pay for an injury, loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that he or she pay restitution for an offense(s) not prosecuted pursuant to a plea agreement.

Restitution is based on three factors:

- Easily ascertainable damages for injury to or loss of property,
- Actual expenses incurred in treatment for injury to persons; and
- Lost wages resulting from injury.

Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, and other intangible losses. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime.

Restitution is to be determined at the sentencing hearing or within 60 days. As part of the sentence, the court must set the terms and conditions under which the defendant shall make restitution. It is recommended that the court be specific

about the payment schedule for restitution, so that these sentence conditions can be appropriately monitored by the Community Corrections Officer.

The offender's compliance with the restitution requirement can be supervised for a maximum of ten years. The restitution portion of the sentence may be modified as to amount, terms, and conditions during this period regardless of the community supervision term and the statutory maximum of the crime.

Cases Involving Fraud or Deceptive Practice

If an offender or organization is found guilty of an offense involving fraud or other deceptive practice, the court may require that notice be given to the class of persons or sector of the public affected by the conviction or financially interested in the subject matter of the offense. The notice can be accomplished by mail, by advertising through designated media, or by other appropriate means (RCW 9.94A.140(3)).

Fines

On all sentences for felony offenses, the court may impose fines according to the following ranges (RCW 9.94A.386):

Class A felonies	\$0 - 50,000
Class B felonies	\$0 - 20,000
Class C felonies	\$0 - 10,000

Other Monetary Obligations

The Sentencing Reform Act allows the court to order several additional monetary obligations. These include:

- Assessments for sentences involving community supervision (RCW 9.94A.270);
- Court costs, including reimbursement for extradition costs (RCW 9.94A.120(9)(a));

- Defense attorney's fees (RCW 9.94A.120(9)(b));
- Contributions to a county or interlocal drug fund RCW 9.94A.120(9)(c);
- Crime victims' compensation assessment (RCW 7.68.035); and
- Recoupment to the victim for the cost of counseling as a result of the offender's crime, in cases where the Special Sexual Offender Sentencing Alternative is exercised (RCW 9.94A.120(7)(a)(vi)).

All such monetary obligations, except probationer assessments and crime victims' assessment, shall be monitored by the Department of Corrections for up to ten years after the date of the judgment of conviction (RCW 9.94A.120(9)).

Contact With Individuals

The court can prohibit the offender from having contact with specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the community supervision term. The order prohibiting contact must relate directly to the circumstances of the crime of conviction (RCW 9.94A.180).

Consecutive/Concurrent Sentences

RCW 9.94A.400 identifies several rules regarding consecutive/concurrent sentences. Generally, sentences for multiple offenses set at one sentencing hearing are served concurrently unless there are three or more separate serious violent offenses. In those cases, the sentences are served consecutively. In some cases, the decision to run the sentences consecutively or concurrently is discretionary, but in others a departure from the policy requires an exceptional sentence. The specific rules are as follows:

Sentencing Persons Convicted of Multiple Offenses: Except for convictions of three or more separate serious violent offenses, all sentences for multiple offenses are served concurrently (RCW 9.94A.400(1)(a)). In the case of three or more serious violent offenses arising from separate and distinct criminal conduct, the

sentences for these serious violent offenses are served consecutively to each other and concurrently with any other sentences imposed for current offenses (RCW 9.94A.400(1)(b)).

Convictions entered or sentenced on the same date as the conviction for which the Offender Score is being computed are deemed "other current offenses" within the meaning of RCW 9.94A.400.

A departure from this rule requires an exceptional sentence (RCW 9.94A.120(13)).

Felony Committed While Offender is Under Sentence for Another Felony: Whenever the current offense was committed while the offender was under sentence for a previous felony and the offender is sentenced to another term of imprisonment, the latter term shall not begin until expiration of all prior terms (RCW 9.94A.400(2)).

A departure from this rule requires an exceptional sentence (RCW 9.94A.120(13)).

Convictions in Multiple Jurisdictions: Subject to the above policies, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run concurrent with felony sentences previously imposed by any court in this or another state or by a federal court, unless the court pronouncing the subsequent sentence expressly orders that they be served consecutively (RCW 9.94A.400(3)). This rule applies when offenders have multiple convictions from different jurisdictions.

Probation Revocations: Whenever any person granted probation under RCW 9.95.210 or RCW 9.92.060, or both, has a probationary sentence revoked and a prison sentence imposed, this sentence shall run consecutively to any sentence imposed, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently (RCW 9.94A.400(4)). This rule applies when offenders from a pre-guidelines case have their probation revoked and are also sentenced on a conviction for a crime committed after June 30, 1984.

Serving Total Confinement with Consecutive Sentences: In the case of consecutive sentences, all periods of total confinement shall be served before any periods of

partial confinement, community service, community supervision, or any other requirement or condition of a sentence (RCW 9.94A.400(5)). This rule applies to offenders who have not completed their sentence requirements from a previous conviction and are sentenced to total confinement on a new offense.

STEP 5 - PENALTY AND MODIFICATION HEARING

If an offender violates any sentence condition or requirement, the court may modify its judgment and sentence according to the rules in RCW 9.94A.200. The court, upon motion of the state or upon its own motion, must first require the offender to show cause why he or she shall not be punished for the noncompliance. A summons or arrest warrant can be issued by the court for the offender's appearance.

If the court finds that a violation of sentence conditions or requirements has occurred, it may order the offender confined for a period not to exceed 60 days for each violation and may convert a partial confinement term to total confinement. Any time served in confinement awaiting the hearing shall be credited against any confinement order. If the court finds that the violation was not wilful, the court may modify its previous order regarding payment of fines or other monetary payments and community service obligations. In all cases, escape charges can also be filed if they are appropriate.

STEP 6 - DISCHARGE AND VACATION OF CONVICTION RECORD

Discharge

When an offender completes his or her sentence requirements, the Department of Corrections shall notify the sentencing court in accordance with RCW 9.94A.220. The court then discharges the offender and provides him or her with a certificate of discharge. This certificate restores all civil rights lost upon conviction. It is not, however, based on a finding of rehabilitation.

Following discharge, the offender's prior record can be used to determine the sentence for later offenses and also used in later criminal prosecution as an element of an offense or for impeachment purposes.

Vacation of Conviction Record

Every offender discharged under the above provision may apply to the sentencing court for a vacation of the conviction record as provided in RCW 9.94A.230. The offender's record cannot be cleared if:

- There are any criminal charges against the offender pending in any court in this state, another state, or federal court;
- The offense was a violent offense (as defined in RCW 9.94A.030(26));
- The offender has been convicted of a new crime in this state, another state, or federal court since the date of the offender's discharge;
- The offense was a Class B felony and less than ten years have passed since the date the applicant was discharged; and
- The offense was a Class C felony and less than five years have passed since the date the applicant was discharged.

If the offender meets these tests, the court can clear the record of conviction by:

- Permitting the offender to withdraw his/her guilty plea and to enter a plea of not guilty; or setting aside the guilty verdict, if the offender was convicted after a plea of not guilty; and
- Dismissing the information or indictment against the offender.

Once the court vacates a record of conviction, the offender's conviction shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction and the offender shall be released from all penalties and disabilities resulting from the offenses. For all purposes, including responding to questions on employment applications, an offender whose record of conviction has been vacated may state that he or she has never been convicted of that crime. However, a vacated conviction record may be used as an element of a crime in a later criminal prosecution for the limited number of offenses whose

classification as a felony requires proof of a prior conviction (e.g., Communication with a Minor for Immoral Purposes).

The sentencing guidelines allow automatic "wash out" of prior convictions which meet the requirements of vacation of conviction. This policy allows offenders who do not formally apply to the court to have eligible offenses excluded from their criminal history in subsequent convictions. (See page I-9 for further discussion of this policy.)

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Note: The law in this section is an unofficial codification of Chapter 9.94A from the 1987 Laws of Washington, incorporating changes resulting from HB 1204 (Chapter 131), HB 753 (Chapter 224), SHB 684 (Chapter 456), HB 1228 (Chapter 458), SB 5089 (Chapter 187), SSB 5824 (Chapter 188), and SB 5550 (Chapter 402).

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1:D:SG 2

9.94A.010 Purpose. The purpose of this chapter is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to add a new chapter to Title 9 RCW designed to:

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

Comment

In 1983, the legislature considered enumerating specific factors which could not be considered in sentencing the offender, including race, creed, and gender. However, the legislature decided that to list such factors could narrow the scope of their intent, which was to prohibit discrimination as to any element that does not relate to the crime or the previous record of the defendant. For this reason, the statute requires that the sentencing guidelines and prosecuting standards be applied equally "without discrimination."

9.94A.020 Short title. This chapter may be known and cited as the sentencing reform act of 1981.

9.94A.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Commission" means the sentencing guidelines commission.
- (2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.
- (3) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.
- (4) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(5) "Confinement" means total or partial confinement as defined in this section.

(6) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(7) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(8)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" includes a defendant's prior convictions in juvenile court if: (i) the conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile Class B and C felonies, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(9) "Department" means the department of corrections.

(10) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(11) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(12) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), wilful failure to return from furlough (RCW 72.66.060), or wilful failure to return from work release (RCW 72.65.070); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(13) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(14) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(15)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

(16) "Nonviolent offense" means an offense which is not a violent offense.

(17) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(18) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release as defined in this section.

(19) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(20) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(21) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(22) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(23) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(24) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(25) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(26) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in subsection (26)(a) of this section; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under subsection (26)(a) or (b) of this section.

(27) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

Comment

The 1986 Amendments:

The 1986 Legislature made several changes in this section (Chapter 257, Laws of 1986). Some changes were intended to resolve ambiguities and inconsistencies which were discovered as the law was put into practice; others merely improved the organization of this chapter. The following explains the Commission's rationale for recommending these changes to the legislature.

The definition of "conviction" has been clarified to include a verdict of guilty, finding of guilty or an acceptance of a plea of guilty. In determining if a prior conviction existed for the purpose of calculating the offender score, it was unclear if a crime for which a plea of guilty had been entered but a sentencing had not taken place, qualified as a "prior conviction." The amendment states that a finding of guilt determined by a jury or a judge (upon entry of a plea or otherwise) is a conviction for the purpose of the SRA.

To reflect the serious nature of Class A felonies, the term "criminal history" was amended so that prior juvenile Class A felonies do not "wash out" when the defendant becomes 23 years of age. See RCW 9.94A.360(3).

The term "drug offense" has been added to this section. Certain types of drug offenses warrant the addition of 12 months to the standard range if a deadly weapon allegation is proven. The law previously provided that this penalty could be imposed for "Delivery or Possession of a Controlled Substance with Intent to Deliver." No RCWs were cited, and there was some confusion if the category excluded crimes such as Distribution to Persons under 18, and Selling for a Profit. The new definition clarifies which drug crimes can receive this penalty. Simple possession, forged prescriptions, and violations of the Legend Drug Act are not included in the definition.

In the offender score matrices and in RCW 9.94A.360, the term "escape" was used. The definition previously contained in RCW 9.94A.310 is moved to the definition section.

The term "felony traffic offense" was previously defined at the bottom of the offender score matrices in RCW 9.94A.330. This definition has been changed to include vehicular homicide, to solve an oversight, and to exclude attempting to elude a police officer. (In 1987, attempting to elude a police officer was again added to the definition.)

The term "first-time offender" confused practitioners and raised questions concerning whether prior juvenile convictions precluded an adult offender from

being sentenced as a "first-time offender." Changes in the definition make it clear that a juvenile adjudication committed at the age of 15 years or after disqualifies the offender from being sentenced under the first-time offender option. The exclusion of sex offenders from this option was previously cited in RCW 9.94A.120(5) and was moved to this section to improve clarity.

The definition of a "nonviolent offense" was added because it is a term used frequently in the act.

The term "serious traffic offense" is added to this section. It previously appeared at the bottom of the matrices in RCW 9.94A.330. The definition clarifies the previously used term of "hit-and-run" by labeling the offense as "hit-and-run an attended vehicle" (RCW 46.52.020(5)).

The term "serious violent offense" is included in this section. It previously appeared at the bottom of the matrices in RCW 9.94A.330. The term has been expanded to include attempts, solicitations and conspiracies to commit any of the felonies listed in the definition. Previously, the law was not clear in three areas: 1) if anticipatory crimes were included in this definition, 2) if anticipatory crimes are eligible for a deadly weapon enhancement, and 3) how anticipatory crimes are to be scored in the offender score. The statutes in this section and in RCW 9.94A.310 and 9.94A.330 make clear that anticipatory offenses are considered the same as the completed crime in determining whether the crime is a serious violent offense, warrants a longer sentence for a deadly weapon allegation, or increases the offender score.

The term "sex offense" has been added to this section to clarify which offenses qualify for the sex offender sentencing options and are precluded from the first-time offender waiver. Anticipatory crimes are included within the definition.

The crime of vehicular assault has been added to the list of crimes within the definition of a "violent offense." The Commission decided that this crime involves basically the same offender behavior as vehicular homicide, a violent offense, and therefore the crime needed to be added to this category.

The 1986 Legislature also added an amendment to make it clear that community supervision is the equivalent of probation under the interstate compact for out-of-state supervision of parolees and probationers. That sentence was erroneously added in subsection (3), but in 1987 it was correctly added to the definition of "community supervision", subsection (4).

The 1987 Amendments:

The 1987 Legislature made several changes to this section. Most of the changes were intended to clarify the law. One was a substantive change to the first-time offender waiver. Another was a change involving Vehicular Homicide.

To clarify the law, the Legislature included federal and out-of-state convictions in the definition of specific types of crimes. Work release was defined as a program of partial confinement, with the stipulation the offender must attend work or school and follow the facility's rules.

Eluding a police officer was included in the definition of felony traffic offense in 1984, then removed in 1986. The 1987 amendments again defined this crime as a felony traffic offense.

The first-time offender definition was amended to exclude use of the waiver for persons convicted of manufacture, deliver, or possess with intent to manufacture or deliver controlled substances classified as schedule I or II narcotics.

In order to make a certain type of Vehicular Homicide offenders eligible for the first-time offender waiver, the definition of violent offenses was amended to include Vehicular Homicide only when caused by driving under the influence or by driving recklessly. Vehicular Homicide is not classified as violent if caused by disregard for the safety of others.

The new crime Homicide by Abuse was added to the definition of serious violent offenses.

9.94A.040 Sentencing guidelines commission--Established--Powers and duties. (1) A sentencing guidelines commission is established as an agency of state government.

(2) The commission shall, following a public hearing or hearings:

(a) Devise a series of recommended standard sentence ranges for all felony offenses and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's criminal history, if any;

(b) Devise recommended prosecuting standards in respect to charging of offenses and plea agreements; and

(c) Devise recommended standards to govern whether sentences are to be served consecutively or concurrently.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: total confinement, partial confinement, community supervision, community service, and a fine.

(4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.

(5) In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines. The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.

(6) This commission shall conduct a study to determine the capacity of correctional facilities and programs which are or will be available. While the commission need not consider such capacity in arriving at its recommendations, the commission shall project whether the implementation of its recommendations would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentences which shall be consistent with such capacity.

(7) The commission may recommend to the legislature revisions or modifications to the standard sentence ranges and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity.

(8) The commission shall study the existing criminal code and from time to time make recommendations to the legislature for modification.

(9) The commission shall exercise its duties under this section in conformity with chapter 34.04 RCW, as now existing or hereafter amended.

9.94A.050 Sentencing guidelines commission--Research staff--Data, information, assistance--Bylaws--Salary of executive officer. The commission shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The commission may request from the office of financial management, the board of prison terms and paroles, administrator for the courts, the department of corrections, and the department of social and health services such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the commission. The commission shall adopt its own bylaws.

The salary for a full-time executive officer, if any, shall be fixed by the governor pursuant to RCW 43.03.040.

9.94A.060 Sentencing guidelines commission--Membership--Appointments--Terms of office--Expenses and Compensation. (1) The commission consists of fifteen voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, subject to confirmation by the senate.

(2) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management, as an ex officio member;

(c) Until July 1, 1988, the chairman of the board of prison terms and paroles, as an ex officio member, and thereafter the chairman of the clemency and pardons board, as an ex officio member;

(d) Two prosecuting attorneys;

(e) Two attorneys with particular expertise in defense work;

- (f) Four persons who are superior court judges;
- (g) One person who is the chief law enforcement officer of a county or city;
- (h) Three members of the public who are not and have never been prosecutors, attorneys, judges or law enforcement officers.

In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the attorney members, of the association of superior court judges in respect to the members who are judges, and of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer.

(3) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing four of the initial members for terms of one year, four for terms of two years, and four for terms of three years.

(4) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(5) The members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Legislative members shall be reimbursed by their respective houses as provided under RCW 44.04.120, as now existing or hereafter amended. Members shall be compensated in accordance with RCW 43.03.250.

9.94A.070 Standard sentence ranges--Revisions or modifications--Submission to legislature. Revisions or modifications of standard sentence ranges or other standards, together with any additional list of standard sentence ranges, shall be submitted to the legislature at least every two years.

9.94A.080 Plea agreements--Discussions--Contents of agreements. The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea to a charged offense or to a lesser or related offense, the prosecutor will do any of the following:

- (1) Move for dismissal of other charges or counts;
- (2) Recommend a particular sentence within the sentence range applicable to the offense or offenses to which the offender pled guilty;
- (3) Recommend a particular sentence outside of the sentence range;
- (4) Agree to file a particular charge or count;
- (5) Agree not to file other charges or counts; or

(6) Make any other promise to the defendant, except that in no instance may the prosecutor agree not to allege prior convictions.

The court shall not participate in any discussions under this section.

Comment

Pursuant to subsection (6), agreements may be reached regarding the filing or dismissal of deadly weapon allegations, the amount of restitution to be paid, whether an alternative conversion from total confinement to community service will be recommended, and whether confinement shall be total or partial. These examples are not exclusive, and subsection (6) was designed to allow agreements appropriate to the specific facts of individual cases which are permitted under the act. See RCW 9.94A.450, the Recommended Prosecuting Standards for Charging and Plea Dispositions.

The requirement that in no instance may the prosecutor agree not to allege prior convictions does not apply to situations in which the conviction is constitutionally invalid on its face. Similarly, it need not be alleged if the prior conviction has been previously determined through a personal restraint petition (or equivalent process) to have been unconstitutionally obtained. See State vs. Ammons, 105 Wn.2d 175, 187 (1986).

9.94A.090 Plea agreements--Statement to court as to nature and reasons for agreement--Court approval or disapproval-- Sentencing judge not bound.

(1) If a plea agreement has been reached by the prosecutor and the defendant pursuant to RCW 9.94A.080, they shall at the time of the defendant's plea state to the court, on the record, the nature of the agreement and the reasons for the agreement. The court, at the time of the plea, shall determine if the agreement is consistent with the interests of justice and with the prosecuting standards. If the court determines it is not consistent with the interests of justice and with the prosecuting standards, the court shall, on the record, inform the defendant and the prosecutor that they are not bound by the agreement and that the defendant may withdraw the defendant's plea of guilty, if one has been made, and enter a plea of not guilty.

(2) The sentencing judge is not bound by any recommendations contained in an allowed plea agreement and the defendant shall be so informed at the time of plea.

Comment

Subsection (1) gives the judge hearing a defendant's plea of guilty the authority to void the plea agreement upon which it is based if it is not consistent with the interests of justice and the prosecuting standards. This includes the authority to deny an amendment of the information. CrR2.1(d).

A sentencing judge is not bound by the recommendations of any party, even if that judge also accepted the defendant's plea of guilty. This is consistent with Washington law preceding implementation of the Sentencing Reform Act.

9.94A.100 Plea agreements--Criminal history. The prosecuting attorney and the defendant shall each provide the court with their understanding of what the defen-

defendant's criminal history is prior to a plea of guilty pursuant to a plea agreement. All disputed issues as to criminal history shall be decided at the sentencing hearing.

Comment

This section has been held not to violate a defendant's right to self-incrimination. State v. Ammons, 105 Wn.2d 175, 183-184 (1986).

9.94A.110 Sentencing hearing--Time period for holding--Presentence reports--Victim impact statement and criminal history--Arguments--Record. Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing. The court shall consider the presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department.

Comment

This section is procedurally implemented through CrR 7.1. Relevant information for purposes of sentencing is to be submitted through written presentence reports. Information set forth in the presentence reports of the prosecuting attorney and the Department of Corrections will be considered admitted, unless specifically controverted by the defendant. State v. Ammons, 105 Wn.2d 175, 184 (1986).

A comprehensive discussion regarding the determination of a defendant's criminal history at the sentencing hearing is contained in State v. Ammons, 105 Wn.2d 175 (1986). See RCW 9.94A.370 for a discussion of other disputed facts that may affect the defendant's sentence.

9.94A.120 Sentences. When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender, the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay a fine, and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7)(a) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions for a sex offense, or any other felony sexual offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

After receipt of the reports, the court shall then determine whether the offender and the community will benefit from use of this special sexual offender sentencing alternative. If the court determines that both the offender and the

community will benefit from use of this provision, the court shall then impose a sentence within the sentence range and, if this sentence is less than six years of confinement, the court may suspend the execution of the sentence and place the offender on community supervision for up to two years. As a condition of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;
- (iii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;
- (iv) Report as directed to the court and a community corrections officer;
- (v) Pay a fine, accomplish some community service work, or any combination thereof; or
- (vi) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

If the offender violates these sentence conditions, the court may revoke the suspension and order execution of the sentence. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(b) When an offender is convicted of any felony sexual offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the

sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

(8) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(9) If a sentence imposed includes a fine or restitution, the sentence shall specify a reasonable manner and time in which the fine or restitution shall be paid. In any sentence under this chapter the court may also require the offender to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (a) to pay court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, (b) to make recoupment of the cost of defense attorney's fees if counsel is provided at public expense, (c) to contribute to a county or interlocal drug fund, and (d) to make such other payments as provided by law. All monetary payments shall be ordered paid by no later than ten years after the date of the judgment of conviction.

(10) Except as provided under RCW 9.94A.140(1), a court may not impose a sentence providing for a term of confinement or community supervision which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(11) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow implicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer of any change in the offender's address or employment.

(12) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(13) A departure from the standards in RCW 9.94A.400(1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210(2) through (6).

(14) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(15) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other

specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision.

(16) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release.

Comment

RCW 9.94A.120(3) indicates that sentences outside the standard range are to be determinate sentences. The definition of determinate sentence is "a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution" (RCW 9.94A.030(10)). When the court sets a sentence outside the range, such sentence should be expressed in terms of the categories allowed under the law.

The First-time Offender Waiver allows the court to impose up to 90 days of confinement, even for offenders with a sentence range of 0 to 60 days.

The 1986 Legislature amended the provisions for inpatient treatment of sexual offenders. The sexual offender treatment program is being transferred from the Department of Social and Health Services to the Department of Corrections. The 1987 Legislature clarified that the transfer of the treatment program applies to offenders whose crimes were committed after July 1, 1987. Offenders whose crimes were committed before that date will still be sent to the program at Eastern and Western State Hospitals, but all sexual offenders will be transferred to the Department of Corrections by 1993. A provision requiring that the treatment provider find the offender amenable to treatment went into effect in 1986.

RCW 9.94A.120(12) codifies the constitutional requirement that the offender receive credit for time served prior to the sentencing. See State v. Phelan, 100 Wn.2d 508, 671 P.2d 1212 (1983).

The 1986 Legislature added subsection (14) to require courts to order restitution, or in the event it is not ordered, to set forth "extraordinary circumstances" in the record for not requiring restitution.

The 1987 Legislature added subsection (15) to allow the court to impose an order prohibiting an offender from contacting victims or other persons directly related to the circumstances of the crime. The court may impose this or other crime-related prohibitions for up to the statutory maximum for that crime.

Subsection (16) clarifies that partial confinement may be served in work release.

State v. Bernhard covers the court's authority to designate a treatment facility as an exceptional condition of a community supervision sentence. See 108 Wn.2d 527, ___ P.2d ___, (1987).

9.94A.123 Legislative Finding and Intent - Commitment of Felony Sexual Offenders for crimes committed after July 1, 1987. The legislature finds that the sexual offender treatment programs at western and eastern state hospitals, while not proven to be totally effective, may be of some benefit in positively affecting

the behavior of certain sexual offenders. Given the significance of the problems of sexual assault and sexual abuse of children, it is therefore appropriate to review and revise these treatment efforts.

At the same time, concerns regarding the lack of adequate security at the existing programs must be satisfactorily addressed. In an effort to promote public safety, it is the intent of the legislature to transfer the responsibility for felony sexual offenders from the department of social and health services to the department of corrections.

Therefore, no person committing a felony sexual offense on or after July 1, 1987, may be committed under RCW 9.94A.120(7)(b) to the department of social and health services at eastern state hospital or western state hospital. Any person committed to the department of social and health services under RCW 9.94A.120(7)(b) for an offense committed before July 1, 1987, and still in the custody of the department of social and health services on June 30, 1993, shall be transferred to the custody of the department of corrections. Any person eligible for evaluation or treatment under RCW 9.94A.120(7)(b) shall be committed to the department of corrections.

9.94A.125 Deadly weapon special verdict--Definition. In a criminal case wherein there has been a special allegation and evidence establishing that the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, the court shall make a finding of fact of whether or not the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it find(s) the defendant guilty, also find a special verdict as to whether or not the defendant or an accomplice was armed with a deadly weapon at the time of the commission of the crime.

For purposes of this section, a deadly weapon is an implement or instrument which has the capacity to inflict death and from the manner in which it is used, is likely to produce or may easily and readily produce death. The following instruments are included in the term deadly weapon: Blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas.

Comment

*The Commission did not provide sentence enhancement for all crimes involving a deadly weapon. For some crimes where the use of the deadly weapon warranted additional punishment, the legislature adopted the Commission's recommendations that an offender have additional time added to the presumptive sentence. These nine crimes are: First Degree Kidnapping, First Degree Rape, First Degree Robbery, First Degree Burglary, Second Degree Assault, First Degree Escape, Second Degree Kidnapping, Second Degree Burglary (non-dwelling only), and the Delivery of or Possession with Intent to Deliver A Controlled Substance (RCW 9.94A.310). The 1986 amendments clarified that the deadly weapon penalties apply to anticipatory offenses to commit one of these nine crimes. Also, the deadly weapon penalty now applies to the drug offenses defined in RCW 9.94A.030(4), instead of applying only to the Delivery or Possession with Intent to Deliver. The Commission was aware that *State v. Workman*, 90 Wn.2d 433, 554 P.2d 382 (1978), prohibits the "double counting" of an element for the purpose of proving the*

existence of the crime and using it as a factor in enhancing the sentence without specific legislative intent to so allow. Therefore, the Commission recommended enhancing the penalty for crimes involving deadly weapons for which the weapon is only an alternative element. The Commission decided that if there are different ways of committing an offense, that the method involving a deadly weapon deserved additional enhancement through a special allegation process.

The definition and procedural requirements for the deadly weapon allegation and finding are carried over from existing law. No distinction is made between a firearm and other types of deadly weapons. The mandatory prison term for a firearm finding, under RCW 9.41.025, and for a deadly weapon finding, under RCW 9.95.040, was abolished by the Sentencing Reform Act as to crimes committed on or after July 1, 1984.

The sentencing court should first calculate the presumptive sentence range for the current offense using the appropriate Offense Seriousness Level and Offender Score. Then the deadly weapon enhancement is added to the entire range. The court may impose any sentence within this enhanced range. The allegation of a deadly weapon cannot be used to enhance the sentence except under this section or upon stipulation pursuant to RCW 9.94A.370.

9.94A.130 Power to defer or suspend sentences abolished—Exceptions. The power to defer or suspend the imposition or execution of sentences is hereby abolished in respect to sentences prescribed for felonies committed after June 30, 1984, except for offenders sentenced under RCW 9.94A.120(7)(a), the special sexual offender sentencing alternative, whose sentence may be suspended.

9.94A.140 Restitution. (1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days and may set the terms and conditions under which the defendant shall make restitution. Restitution ordered by the court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years subsequent to the imposition of sentence. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an

organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim or defendant.

9.94A.142 Restitution—Applicable to offenses committed after July 1, 1985.

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days and shall set the terms and conditions under which the defendant shall make restitution. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years subsequent to the imposition of sentence. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant.

(5) This section shall apply to offenses committed after July 1, 1985. •

Comment

The legislature has expressed a strong desire that victims receive restitution from offenders. Courts are urged to set restitution amounts "at the sentencing hearing or within sixty days." This time limit (as with others relating to the setting of hearings) is advisory to the courts and was not intended to create any right for a defendant to a speedy restitution hearing. See State v. Hartwell, 38 Wn. App. 135 (1984). (The 60-day rule is directory, not mandatory, and there must be a causal connection between the crime proven and the injuries for which restitution is ordered.)

9.94A.150 Leaving correctional facility or release prior to expiration of sentence prohibited--Exceptions. No person serving a sentence imposed pursuant to this chapter shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) The terms of the sentence may be reduced by earned early release time in accordance with procedures developed and promulgated by the department. The earned early release time shall be for good behavior and good performance, as determined by the department. In no case shall the aggregate earned early release time exceed one-third of the sentence;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(4) If the sentence of confinement is in excess of twelve months but not in excess of three years, no more than the final three months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community. If the sentence of confinement is in excess of three years, no more than the final six months of the sentence may be served in such partial confinement;

(5) The governor may pardon any offender;

(6) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

(7) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160.

9.94A.155 Prisoner escape, release, or furlough--Notification procedures.

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, work release placement, furlough, or escape, if such notice has been requested in writing about a specific inmate convicted of a violent offense, to all of the following:

(a) The chief of police of the city, if any, in which the inmate will reside, if known, or in which placement will be made in a work release program;

(b) The sheriff of the county in which the inmate will reside, if known, or in which placement will be made in a work release program;

(c) The victim, if any, of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(d) Any witnesses who testified against the inmate in any court proceedings involving the violent offense; and,

(e) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a violent offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim, if any, of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(4) For purposes of this section, the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings, and children.

(5) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

9.94A.156 Prisoner escape, release, or furlough--Homicide and violent offenses, rights of victims and witnesses. The department of corrections shall provide the victims and next of kin in the case of a homicide and witnesses involved in violent offense cases where a judgment and sentence was entered after October 1, 1983, a statement of the rights of victims and witnesses to request and receive notification under RCW 9.94A.155 and 9.94A.157.

9.94A.157 Prisoner escape, release, or furlough--Requests for notification. Requests for notification under RCW 9.94A.155 shall be made by sending a written

request by certified mail directly to the department of corrections and giving the defendant's name, the name of the county in which the trial took place, and the month of the trial. Notification information and necessary forms shall be available through the department of corrections, county prosecutors' offices, and other agencies as deemed appropriate by the department of corrections.

9.94A.158 Prisoner escape, release, or furlough--Notification as additional requirement. The notification requirements of RCW 9.94A.155 are in addition to any requirements in RCW 43.43.745 or other law.

9.94A.159 Prisoner escape, release, or furlough--Consequences of failure to notify. Civil liability shall not result from failure to provide notice required under RCW 9.94A.155 through 9.94A.158, 9.94A.030, and 43.43.745 unless the failure is the result of gross negligence.

9.94A.160 Emergency due to inmate population exceeding correctional facility capacity. If the governor finds that an emergency exists in that the population of a state residential correctional facility exceeds its reasonable, maximum capacity, then the governor may do any one or more of the following:

(1) Call the sentencing guidelines commission into an emergency meeting for the purpose of evaluating the standard ranges and other standards. The commission may adopt any revision or amendment to the standard ranges or other standards that it believes appropriate to deal with the emergency situation. The revision or amendment shall be adopted in conformity with chapter 34.04 RCW and shall take effect on the date prescribed by the commission. The legislature shall approve or modify the commission's revision or amendment at the next legislative session after the revision or amendment takes effect. Failure of the legislature to act shall be deemed as approval of the revision or amendment;

(2) If the emergency occurs prior to July 1, 1988, call the board of prison terms and paroles into an emergency meeting for the purpose of evaluating its guidelines and procedures for release of prisoners under its jurisdiction. The board shall adopt guidelines for the reduction of inmate population to be used in the event the governor calls the board into an emergency meeting under this section. The board shall not, under this subsection, reduce the prison term of an inmate serving a mandatory minimum term under RCW 9.95.040, an inmate confined for treason, an inmate confined for any violent offense as defined by RCW 9.94A.030, or an inmate who has been found to be a sexual psychopath under chapter 71.06 RCW. In establishing these guidelines, the board shall give priority to sentence reductions for inmates confined for nonviolent offenses, inmates who are within six months of a scheduled parole, and inmates with the best records of conduct during confinement. The board shall consider the public safety, the detrimental effect of overcrowding upon inmate rehabilitation, and the best allocation of limited correctional facility resources. Guidelines adopted under this subsection shall be submitted to the senate institutions and house of representatives social and health services committees for their review. This subsection does not require the board to reduce inmate population to or below any certain number. The board may also take any other action authorized by law to modify the terms of prisoners under its jurisdiction;

(3) Call the clemency and pardons board into an emergency meeting for the purpose of recommending whether the governor's commutation or pardon power should be exercised to meet the present emergency.

9.94A.165 Emergency in county jails population exceeding capacity. If the governor finds that an emergency exists in that the populations of county jails exceed their reasonable, maximum capacity in a significant manner as a result of increases in the sentenced felon population due to implementation of chapter 9.94A RCW, the governor may do any one or more of the following:

(1) Call the sentencing guidelines commission into an emergency meeting for the purpose of evaluating the standard ranges and other standards. The commission may adopt any revision or amendment to the standard ranges or other standards that it believes appropriate to deal with the emergency situation. The revision or amendment shall be adopted in conformity with chapter 34.04 RCW and shall take effect on the date prescribed by the commission. The legislature shall approve or modify the commission's revision or amendment at the next legislative session after the revision or amendment takes effect. Failure of the legislature to act shall be deemed as approval of the revision or amendment. The commission shall also analyze how alternatives to total confinement are being provided and used and may recommend other emergency measures that may relieve the overcrowding.

(2) Call the clemency and pardons board into an emergency meeting for the purpose of recommending whether the governor's commutation or pardon power should be exercised to meet the present emergency.

9.94A.170 Term of confinement tolled by unapproved absence. A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented him or herself from supervision without the prior approval of the entity in whose custody the offender has been placed.

9.94A.180 Term of partial confinement--Violation of rules of work release--Right to hearing--Return to total confinement.

(1) An offender sentenced to a term of partial confinement shall be confined in the facility for at least eight hours per day. The offender shall be required as a condition of partial confinement to report to the facility at designated times. An offender may be required to comply with crime-related prohibitions during the period of partial confinement.

(2) An offender in a county jail ordered to serve all or part of a term of less than one year in work release who violates the rules of the work release facility or fails to remain employed or enrolled in school may be transferred to the appropriate county detention facility without further court order but shall, upon request, be notified of the right to request an administrative hearing on the issue of whether or not the offender failed to comply with the order and relevant conditions. Pending such hearing, or in the absence of a request for the hearing, the offender shall serve the remainder of the term of confinement as total confinement. This subsection shall not affect transfer or placement of offenders committed to the state department of corrections.

Comment

The 1987 Legislature added subsection (2) to clarify the procedures for county jails when work release rules are violated.

9.94A.190 Terms of more than one year or less than one year--Where served--Reimbursement of costs.

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state. Except as provided for in subsection (3) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided for in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department of corrections for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.400.

Comment

See also RCW 70.48.400: "Persons sentenced to felony terms or a combination of terms of more than three hundred sixty-five days of incarceration shall be committed to state institutions under the authority of the department of corrections. Persons serving sentences of three hundred sixty-five consecutive days or less may be sentenced to a jail as defined in RCW 70.48.010. All persons convicted of felonies or misdemeanors and sentenced to jail shall be the financial responsibility of the city or county."

The 1986 amendments included a new subsection (3) which provides that offenders with a sentence greater than a year, who also have a sentence less than a year, will serve the entire period of time in a state institution. Prior to this amendment, offenders were transferred from the state institution to a local facility to serve sentences of less than one year.

9.94A.195 Violation of condition or requirement of sentence--Arrest by community corrections officer--Confinement in county jail.

(1) If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court. If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, an offender may be required to submit to a search and seizure of the offender's person, residence, automobile or other personal property. A community corrections officer may also arrest an offender for any crime committed in his or her presence. The facts and circumstances of the conduct of the offender shall be

reported by the community corrections officer, with recommendations, to the court.

If a community corrections officer arrests or causes the arrest of an offender under this section, the offender shall be confined and detained in the county jail of the county in which the offender was taken into custody, and the sheriff of that county shall receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the community corrections officer, and such offenders shall not be released from custody on bail or personal recognizance, except upon approval of the court, pursuant to a written order.

Comment

The Commission intends that Community Corrections Officers exercise their arrest powers sparingly, with due consideration for the seriousness of the violation alleged and the impact of confinement on jail population. Violations may be charged by the Community Corrections Officer upon notice of violation and summons, without arrest.

The search and seizure authorized by this section should relate to the violation which the Community Corrections Officer believes to have occurred.

9.94A.200 Noncompliance with condition or requirement of sentence-- Procedure--Penalty.

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the requirements or conditions of a sentence, the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may convert a term of partial confinement to total confinement. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court; and

(c) If the court finds that the violation was not wilful, the court may modify its previous order regarding payment of fines or other monetary payments and regarding community service obligations.

(3) Nothing in this section prohibits the filing of escape charges if appropriate.

Comment

Although the legislature has not adopted specific guidelines for the length of sanctions for various violations, the imposition of sanctions should be evaluated with reference to the standard range of the original offense.

9.94A.210 Sentence within standard range for offense not appealable--Sentence outside sentence range subject to appeal and review--Procedure--Grounds for reversal--Written opinions.

(1) A sentence within the standard range for the offense shall not be appealed. For purposes of this section, a sentence imposed on a first offender under RCW 9.94A.120(5) shall also be deemed to be within the standard range for the offense and shall not be appealed.

(2) A sentence outside the sentence range for the offense is subject to appeal by the defendant or the state. The appeal shall be to the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing judge are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing judges and others in implementing this chapter and in developing a common law of sentencing within the state.

9.94A.220 Discharge upon completion of sentence--Certificate of discharge--Counseling after discharge. When an offender has completed the requirements of the sentence, the secretary of the department or his designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge. The discharge shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

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

9.94A.230 Vacation of offender's record of conviction.

(1) Every offender who has been discharged under RCW 9.94A.220 may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the tests prescribed in subsection (2) of this section, the court may clear the record of conviction by: (a) Permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty; or (b) if the offender has been convicted after a plea of not guilty, by the court setting aside the verdict of guilty; and (c) by the court dismissing the information or indictment against the offender.

(2) An offender may not have the record of conviction cleared if: (a) There are any criminal charges against the offender pending in any court of this state or another state, or in any federal court; (b) the offense was a violent offense as defined in RCW 9.94A.030; (c) the offender has been convicted of a new crime in this state, another state, or federal court since the date of the offender's discharge under RCW 9.94A.220; (d) the offense is a class B felony and less than ten years have passed since the date the applicant was discharged under RCW 9.94A.220; and (e) the offense was a class C felony and less than five years have passed since the date the applicant was discharged under RCW 9.94A.220.

(3) Once the court vacates a record of conviction under subsection (1) of this section, the fact that the offender has been convicted of the offense shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction, and the offender shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

Comment

While all offenders may obtain a discharge under RCW 9.94A.220, only those convicted of a nonviolent offense who have remained crime-free for a specific period may earn a vacation of their conviction. This vacation of the conviction is analogous to the dismissal obtained under RCW 9.95.240 (deferred sentence). See also RCW 9.95 (Restoration of Civil Rights) and 9.96 (Employment Rights). A vacated conviction under this statute cannot be used as criminal history. The issue of whether a vacated conviction entitles an offender to possess a firearm under state law has yet to be determined by the courts; federal law precludes such possession.

9.94A.250 Clemency and pardons board—Established—Membership—Terms of office—Chairman—Bylaws—Travel expenses—Staff.

(1) The clemency and pardons board is established as a board within the office of the governor. The board consists of five members appointed by the governor, subject to confirmation by the senate.

(2) Members of the board shall serve terms of four years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing one of the initial members for a term of one year, one for a term of two years, one for a term of three years, and two for terms of four years.

(3) The board shall elect a chairman from among its members and shall adopt bylaws governing the operation of the board.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(5) The attorney general shall provide a staff as needed for the operation of the board.

9.94A.260 Clemency and pardons board--Petitions for review and commutation of sentences and pardons--Recommendations. The clemency and pardons board shall receive petitions from individuals, organizations, and the department for review and commutation of sentences and pardoning of offenders in extraordinary cases, and shall make recommendations thereon to the governor.

9.94A.270 Probationer assessments.

(1) Whenever a punishment imposed under this chapter requires community supervision services to be provided, the sentencing court shall require that the offender pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the probation and which shall be considered as payment or part payment of the cost of providing probation supervision to the probationer. The court may exempt a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the court.

(d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the court.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the state general fund.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982.

(1)
RCW 9.94A.310
TABLE 1
SENTENCING GRID

SERIOUSNESS
LEVEL

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

RCW 9.94A.310 (Continued)

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

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence if the offender or an accomplice was armed with a deadly weapon as defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice was armed with a deadly weapon and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following times shall be added to the presumptive range determined under subsection (2) of this section:

(a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.200), or Kidnapping 1 (RCW 9A.40.020)

(b) 18 months for Burglary 1 (RCW 9A.52.020)

(c) 12 months for Assault 2 (RCW 9A.36.020), Escape 1 (RCW 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW 9A.52.030), or any drug offense.

Comment

The 1986 amendments provided that the 12-month deadly weapon penalty applies to those drug offenses defined in RCW 9.94A.030(11), instead of applying only to Delivery or Possession of a Controlled Substance with Intent to Deliver.

The 1986 revisions also made it clear that the deadly weapon penalties apply to anticipatory offenses to commit one of the crimes listed in subsection (3).

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XIV Aggravated Murder 1 (RCW 10.95.020)
- XIII Murder 1 (RCW 9A.32.030)
Homicide by Abuse (RCW 9A.32.____)
- XII Murder 2 (RCW 9A.32.050)
- XI Assault 1 (RCW 9A.36.010)
- X Kidnapping 1 (RCW 9A.40.020)
Rape 1 (RCW 9A.44.040)
Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))
Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)
Leading organized crime (RCW 9A.82.060(1)(a))
- IX Robbery 1 (RCW 9A.56.200)
Manslaughter 1 (RCW 9A.32.060)
Statutory Rape 1 (RCW 9A.44.070)
Explosive devices prohibited (RCW 70.74.180)
Endangering life and property by explosives with threat to human being (RCW 70.74.270)
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a))
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)
Rape 2 (RCW 9A.44.050)
Promoting Prostitution 1 (RCW 9A.88.070)
Selling heroin for profit (RCW 69.50.410)
- VII Burglary 1 (RCW 9A.52.020)
Vehicular Homicide (RCW 46.61.520)
Introducing Contraband 1 (RCW 9A.76.140)
Statutory Rape 2 (RCW 9A.44.080)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- VI Bribery (RCW 9A.68.010)
Manslaughter 2 (RCW 9A.32.070)

RCW 9.94A.320 (Continued)

- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b), (c), and (d))
- Incest 1 (RCW 9A.64.020(1))
- Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
- Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)

- V Criminal Mistreatment 1 (RCW 9A.42.020)
- Rape 3 (RCW 9A.44.060)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)

- IV Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.020)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Wilful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run -- Injury Accident (RCW 46.52.020(4))
- Vehicular Assault (RCW 46.61.522)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080(1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))

- III Criminal Mistreatment 2 (RCW 9A.42.030)
- Statutory Rape 3 (RCW 9A.44.090)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.030)
- Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
- Harassment (RCW 9A.46.020)

RCW 9.94A.320 (Continued)

- Promoting Prostitution 2 (RCW 9A.88.080)
- Wilful Failure to Return from Work Release (RCW 72.65.070)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of Livestock 1 (RCW 9A.56.080)

- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Livestock 2 (RCW 9A.56.080)
- Burglary 2 (RCW 9A.52.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)

- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking a Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V (RCW 69.50.401(d))

Comment

The 1986 and 1987 amendments ranked some new offenses and created seriousness levels for previously unranked offenses.

TABLE 3

OFFENDER SCORE MATRIX

Prior Adult Convictions

(Score prior convictions for felony anticipatory crimes (attempts, criminal solicitations, and criminal conspiracies) the same as for the completed crime.)

Current Offenses	Serious Violent	Burglary 1	Other Violent	Vehicular Assault/Homicide	Escape
Serious Violent	3	2	2	2	1
Burglary 1	2	2	2	2	1
Other Violent	2	2	2	2	1
Felony Traffic	1	1	1	2	1
Escape	0	0	0	0	1
Burglary 2	1	2	1	1	1
Other Nonviolent	1	1	1	1	1
Drug	1	1	1	1	1

Current Offenses	Burglary 2	Other Felony Traffic	Serious Traffic	Other Non-Violent	Drug
Serious Violent	1	1	0	1	1
Burglary 1	2	1	0	1	1
Other Violent	1	1	0	1	1
Felony Traffic	1	1	1	1	1
Escape	0	0	0	0	0
Burglary 2	2	1	0	1	1
Other Non-violent	1	1	0	1	1
Drug	1	1	0	1	2

Prior Juvenile Convictions

(Score prior convictions for felony anticipatory crimes (attempts, criminal solicitations, and criminal conspiracies) the same as for the completed crime.)

Current Offenses	Serious Violent	Burglary 1	Other Violent	Vehicular Assault/Homicide	Escape
Serious Violent	3	2	2	2	1/2
Burglary 1	2	2	2	2	1/2
Other Violent	2	2	2	2	1/2
Felony Traffic	1/2	1/2	1/2	2	1/2

TABLE 3 (cont'd)

OFFENDER SCORE MATRIX

	<u>Prior Juvenile Convictions (cont'd)</u>				
	0	0	0	0	1/2
Escape	0	0	0	0	1/2
Burglary 2	1/2	2	1/2	1/2	1/2
Other Non-Violent	1/2	1/2	1/2	1/2	1/2
Drug	1/2	1/2	1/2	1/2	1/2

Current Offenses	Burglary 2	Other Felony Traffic	Serious Traffic	Other Non-Violent	Drug
Serious Violent	1/2	1/2	0	1/2	1/2
Burglary 1	1	1/2	0	1/2	1/2
Other Violent	1/2	1/2	0	1/2	1/2
Felony Traffic	1/2	1/2	1/2	1/2	1/2
Escape	0	0	0	0	0
Burglary 2	1	1/2	0	1/2	1/2
Other Nonviolent	1/2	1/2	0	1/2	1/2
Drug	1/2	1/2	0	1/2	1

Comment

The 1986 amendments added felony traffic offenses as a new scoring category for current offenses. This replaced the former category of Vehicular Homicide. In addition, Vehicular Assault was added to the Vehicular Homicide prior conviction category. In 1986, the Offender Score Matrix was amended to provide that prior vehicular assaults and vehicular homicides receive two points if the current offense is a felony traffic offense. However, when RCW 9.94A.330(11) was amended that same year, an error was made and this section indicates that only prior vehicular homicides receive two points if the current offense is a felony traffic offense.

The 1987 amendments changed scoring rules for First and Second Degree Escape in RCW 9.94A.360(13) and (14). However, the offender score matrix was not amended to reflect these changes.

V. RECOMMENDED SENTENCING GUIDELINES

9.94A.340 Equal application. The sentencing guidelines and prosecuting standards apply equally to offenders in all parts of the state, without discrimination as to any element that does not relate to the crime or the previous record of the defendant.

9.94A.350 Offense seriousness level. The offense seriousness level is determined by the offense of conviction. Felony offenses are divided into fourteen levels of seriousness, ranging from low (seriousness level I) to high (seriousness level XIV - see RCW 9.94A.320 (Table 2)).

Comment

Crime Label: *Offense seriousness is established by the actual crime of conviction. The crime of conviction is therefore far more significant in determining a sentence than under the former indeterminate system.*

Crime Ranking: *One of the most significant and time-consuming decisions made by the Commission was its ranking of crimes by seriousness. The three mandatory minimum sentences established by the Sentencing Reform Act (First Degree Murder, First Degree Assault, First Degree Rape) served as benchmarks for the Commission's work. The Commission was also assisted by the general felony classifications established by the legislature (Classes A, B, and C felonies - RCW 9A.20.020). The Commission decided that given the law's emphasis on violent crimes, the seriousness levels needed to reflect this priority. Certain Class C felonies were eventually ranked higher than some Class B felonies because they constituted a crime against a person.*

Offense Date: *The date of the offense is important because it establishes whether the guidelines apply to a particular offender's case. If the date of offense is on or before June 30, 1984, Chapter 224, Laws of 1986, requires the Indeterminate Sentence Review Board and its successors to make decisions with reference to the purposes, standards, and ranges of the Sentencing Reform Act, and the minimum term recommendations of the sentencing judge and prosecuting attorney. See In Re Myers, 105 Wn.2d 257 (1986). The date of the offense also influences what portion of an offender's juvenile record will be used to calculate criminal history.*

Ranked Felonies: *The most common felonies have been included in the Seriousness Level Table. The Commission decided not to rank certain felonies which seldom occur. The Commission will continue to recommend adjustments in Seriousness Levels as new felonies are created by the legislature. If, in the future, a significant number of persons are convicted of offenses not included in the Seriousness Level Table, the Commission will recommend appropriate seriousness levels to the legislature for those crimes.*

9.94A.360 Offender score. The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules, partially summarized in Table 3, RCW 9.94A.330, are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed.

Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsection (3) of this section, class A prior felony convictions shall always be included in the offender score. Class B prior felony convictions shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without being convicted of any felonies. Class C prior felony convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without being convicted of any serious traffic or felony traffic offenses. This subsection applies to both adult and juvenile prior convictions. Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

(3) Include class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(a) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

(b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score; and

(c) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11) or (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for Murder 1 or 2, Assault 1, Kidnapping 1, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however, count two points for each prior adult Burglary 2 conviction, and one point for each prior juvenile Burglary 2 conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide, count one point for each adult, and 1/2 point for each juvenile, prior conviction for each other felony offense or serious traffic offense.

(12) If the present conviction is for a drug offense count two points for each adult prior felony drug offense conviction and one point for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Wilful Failure to Return from Furlough, RCW 72.66.060, or Wilful Failure to Return from Work Release, RCW 72.65.070, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(15) If the present conviction is for Burglary 2, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 conviction, and one point for each juvenile prior Burglary 2 conviction.

Comment

The 1986 amendments made several changes to this section:

- Added a definition of "prior conviction" and a definition of "other current offenses" in subsection (1);
- Provided that Class A juvenile convictions always count in the criminal history score if a juvenile was at least 15 at the time of the offense (previously, juvenile convictions no longer counted after the person was 23 years of age);
- Changed the scoring rules for felony traffic offenses;
- Clarified the fact that anticipatory offenses are to be counted the same as completed offenses for the purpose of scoring current convictions; and
- Allowed post-1986 prior adult convictions which were served concurrently to be counted separately.

The 1987 amendments changed the scoring rules for First and Second Degree Escape. All prior felony convictions count in the criminal history score instead of only prior escapes counting. However, only prior escape convictions continue to count against Wilful Failure to Return from Furlough and Wilful Failure to Return from Work Release.

Misdemeanors: The Commission decided not to include misdemeanors in the offender score for two reasons: 1) the emphasis of the legislation was on felonies, and 2) the reliability of court records varies greatly throughout the state. An exception to this policy was made in the case of felony traffic offenses. The Commission decided that for these crimes, previous serious driving misdemeanors are relevant in establishing the offender's history of similar behavior.

The Commission anticipates that in some instances an offender's history of misdemeanors may be used by the court in selecting a sentence within the standard sentence range or in departing from the range to administer an exceptional sentence.

Role of Criminal History: The Commission's mandate from the legislature was to consider both the seriousness of the crime and the nature and extent of criminal history. The Commission decided to emphasize the current offense in establishing standard sentence ranges, but also to give weight to a person's past convictions, including the pattern of those convictions. Given the legislation's emphasis on sanctions for violent crimes, the Commission decided that repeat violent offenders needed to be identified and dealt with severely. As a result, the grid places an accelerated emphasis on criminal history for the repeat violent offender.

Prior Offenses: The Commission decided that the weighting of prior offenses should vary depending on the present offense. Thus, a criminal history with serious violent crime convictions counts most heavily when the current offense is also a serious violent offense; previous convictions for violent offenses count more heavily when the current offense is violent; prior burglary convictions count more heavily when the current offense is a burglary; prior drug offenses count more heavily when the current offense is a drug offense; and prior violent felony traffic offenses count more heavily when the current offense is a felony traffic offense.

Subsection 5(c) refers to prior convictions "served concurrently." The meaning of this term was addressed in State v. Hartley, 41 Wn. App. 669 (1985).

Juvenile Criminal History: Since the legislation required that certain prior juvenile felony adjudications be included as part of criminal history, the Commission needed to establish the relative weight of these felonies in comparison to adult prior felonies. The Commission decided that prior violent felony convictions, whether committed by an adult or a juvenile, should receive the same number of points if the instant offense was violent. The Commission believed that a distinction was necessary between nonviolent adult felonies and nonviolent juvenile felonies because nonviolent juvenile felonies often represent less serious conduct.

In addition, under the definition of juvenile criminal history in RCW 9.94.030(8)(b), the legislation specified that prior juvenile convictions (amended in 1986 to only address class B and C offenses) are not considered after the offender reaches age 23; the Commission therefore wanted to avoid a significant disparity between the potential Offender Score for someone at age 22 and someone at age 23. Thus, the decision was to count juvenile nonviolent felony adjudications at one-half point (rounding down to the nearest whole number).

"Wash Out" of Priors: The Commission decided that adult Class A felonies should always be considered as part of the Offender Score. The Commission decided that prior Class B and C felonies should eventually "wash out" and be eliminated from the Offender Score (see subsection (2)). The 1986 amendments changed the "wash out" provisions to clarify that once a crime meets the "wash out" test, it is always "washed out" and that any consecutive period of crime-free behavior can be used to meet the "wash out" test.

Out-of-State Convictions: In calculating the Offender Score, out-of-state convictions must be compared to Washington law.

The question of whether a foreign conviction constituted a felony was discussed in State v. Southerland, 43 Wn. App. 246 (1986).

9.94A.370 Presumptive sentence.

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The additional time for deadly weapon findings shall be added to the entire presumptive sentence range. The court may impose any sentence within the range that it deems appropriate. All presumptive sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing. Acknowledgment includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the presumptive sentence range except upon stipulation or when specifically provided for in RCW 9.94A.390(2)(c), (d), and (e).

Comment

The Commission believed that defendants should be sentenced on the basis of facts which are acknowledged, proven, or pleaded to. Concerns were raised about facts which were not proven as an element of the conviction or the plea being used as a basis for sentence decisions, including decisions to depart from the sentence range. As a result, the "real facts policy" was adopted. Amendments in 1986 clarified that facts proven in a trial can be used by a court in determining a sentence.

If the defendant disputes information in the Presentence Investigation, it is anticipated that an evidentiary hearing will be held to resolve the issue.

9.94A.380 Alternatives to total confinement. For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used.

These alternatives include the following sentence conditions that the court may order as substitutes for total confinement: (1) One day of partial confinement or eight hours of community service may be substituted for one day of total confinement; (2) the community service conversion is limited to two hundred forty hours or thirty days. The conversion of total confinement to partial confinement may be applied to all sentences of one year or less, including those for violent offenses.

Comment

One of the legislative directions to the Commission was to "emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender" (RCW 9.94A.040(5)). In fulfilling this directive, the Commission believed it was necessary to develop a flexible policy, but one that also ensures some standardization in its application. The Commission decided that by having the court set the sentence in terms of total confinement (i.e., jail time), proportionality among like offenders would be maintained. The court then has the discretion to apply alternative conversions as a substitute for total confinement for offenders with sentences less than a year. One day of partial confinement (typically work release) or eight hours of community service may replace one day of total confinement. The community service hours, however, are limited to 240 hours (30 days) and thus may only be a partial equivalent for any sentence over 30 days. (Community service conversions are only available in the case of nonviolent offenders.)

A converted sentence may include an equivalent combination of jail time, work release, and community service hours. As an example, a sentence of total confinement for nine months may be converted to five months of jail, three months of partial confinement and one month of community service.

9.94A.383 Community supervision. On all sentences of confinement for one year or less the court may impose up to one year of community supervision. For confinement sentences, unless otherwise ordered by the court, the period of community supervision begins at the date of release from confinement. For nonconfinement sentences, the period of community supervision begins at the date of entry of the judgment and sentence.

9.94A.386 Fines. On all sentences under this chapter the court may impose fines according to the following ranges:

Class A felonies	\$0 - 50,000
Class B felonies	\$0 - 20,000
Class C felonies	\$0 - 10,000

9.94A.390 Departures from the guidelines. If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(d) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(iii) The current offense involved the manufacture of controlled substances for use by other parties; or

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

(e) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of 18 years manifested by multiple incidents over a prolonged period of time; or

(f) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

Comment

Standard sentence ranges represent the appropriate sanction for the "typical" case. The judge will consider individual factors when setting the determinate sentence within the standard sentence range. Some cases, however, are exceptional and require departure from the standard sentence range.

Although it was recognized that not all exceptional fact patterns can be anticipated, the Commission determined that a carefully considered non-exclusive list of appropriate justifications for departures from the standard range would be helpful to both the trial and appellate courts. This list is intended as a frame of reference for the court to use in identifying the exceptional case. The list includes examples of mitigating and aggravating factors. As the state gains more experience with this new sentencing system, additional factors may be added to this list.

One illustrative mitigating factor concerns operation of the multiple offense policy. The Commission was particularly concerned about multiple offenses committed in separate jurisdictions where separate sentencing hearings would occur, thus resulting in a higher presumptive sentence than if the crimes were committed in a single jurisdiction and there was only one hearing. In that instance, if the multiple offense policy results in such comparatively high presumptive sentences, the judge might want to consider departing from the standard sentence range in order to impose a less severe sentence, depending, of course, on the particular set of case facts. There was also concern that the multiple offense policy might sometimes result in a presumptive sentence that is clearly too lenient in light of the purposes of this chapter.

The 1986 amendments provided better enumeration of the aggravating and mitigating factors. In addition, the reference to firearm possession in major VUCSA offenses was removed. The Commission decided that when firearm use was charged, it should be used to set a sentence within the standard range or as part of a sentence enhancement under RCW 9.94A.125; if firearm use is not charged, it can influence the sentence only upon the stipulation of both parties under RCW 9.94A.370. The other 1986 amendment added the adjective "current" to subsection (2) to make it clear that aggravating factors only apply to the circumstances surrounding the charged offense.

The 1987 amendments added multiple prior incidents of sexual abuse of the same victim under the age of 18 as an aggravating circumstance.

9.94A.400 Consecutive/concurrent sentences.

(1) (a) Except as provided in (b) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)(e) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same

time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under RCW 9.94A.390.

(b) Whenever a person is convicted of three or more serious violent offenses, as defined in RCW 9.94A.330, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's criminal history in the offender score and the sentence range for other serious violent offenses shall be determined using an offender score of zero. The sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2) Whenever a person while under sentence of felony commits another felony and is sentenced to another term of imprisonment, the latter term shall not begin until expiration of all prior terms.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement of conditions of any of the sentences.

Comment

Under the SRA, a sentencing judge must impose concurrent sentences. There are two exceptions to this policy: under subsection (b), a person convicted of three or more serious violent offenses arising from separate and distinct criminal conduct must be sentenced consecutively (the criminal history score is calculated differently than in subsection (a)); and under subsection (3), the sentencing judge may expressly order that the sentence be served consecutively to sentences already imposed in other jurisdictions.

Unless the offenses fall under the exceptions listed in subsection (1) (b) or subsection (3), consecutive sentences imposed for current offenses constitute exceptional sentences and must comply with the exceptional sentence provisions of the Act. See RCW 9.94A.120(13).

The 1987 amendment to subsection (1) (a) clarifies the meaning of "same criminal conduct."

The 1986 amendment to subsection (3) changed this section so sentences for all current offenses run concurrently with the sentences for all other current offenses from any other state or federal court, unless the sentencing court expressly orders the sentences to be consecutive. Previously, the presumption was that such sentences would be consecutive unless the sentencing court expressly ordered otherwise. This subsection is now consistent with pre-SRA Law.

Subsections (2) and (3) cover situations, where at the time the defendant is sentenced on a present conviction, he or she has not yet completed a sentence for another felony conviction. The difference between the two subsections is the phrase "under sentence of a felony." Under (2), if at the time the present crime is committed, the defendant has not completed confinement for another sentence, the confinement for the present sentence does not begin until expiration of his or her prior sentence. These sentences are to be run consecutively and an exceptional sentence is necessary to impose concurrent sentences. Under (3), if the latter crime was committed at a point before the offender was sentenced for the previous crime, the presumption is toward a consecutive sentence but the court can decide to order a concurrent sentence.

Subsection (3) will often be relevant where the defendant has been charged in multiple informations or has committed a series of crimes across court jurisdictions (crimes in more than one county, more than one state, or crimes for which he or she has been sentenced under both state and federal jurisdictions) and where the defendant will be sentenced by more than one judge. The purpose of this subsection is to allow the judge some flexibility within the guidelines in order to minimize the incidental factors of geographical boundaries and jurisdictions.

Subsection (4) covers the situation in which a court is imposing a prison sentence for a crime committed prior to July 1, 1984, where the defendant previously received a deferred or suspended sentence and now is having that probation revoked. The sentence for the revocation runs consecutively to any sentence imposed under the new presumptive scheme unless the court expressly orders a concurrent sentence.

Subsection (5) points out that the defendant must serve all terms of total confinement on consecutive sentences before other conditions are performed.

As stated earlier, the multiple offense policy was among the most complex issues confronted by the Commission and the legislature. The legislature acknowledged in RCW 9.94A.390 (aggravating and mitigating factors) that the operation of the multiple offense policy might, in individual cases, result in a "clearly excessive" or "clearly too lenient" presumptive sentence, and therefore, departures from the range may be appropriate.

This section does not apply to first-time offenders sentenced under RCW 9.94A.120(5).

9.94A.410 Anticipatory offenses. For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the crime, and multiplying the range by 75 percent.

In calculating an offender score, count each prior conviction as if the present conviction were for the completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

Comment

This section was amended by the 1986 Legislature to clarify that anticipatory offenses are to be counted in the offender score as if they were completed offenses.

9.94A.420 Presumptive ranges that exceed the statutory maximum. If the presumptive sentence duration given in the sentencing grid exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence.

VI. RECOMMENDED PROSECUTING STANDARDS FOR CHARGING AND PLEA DISPOSITIONS

9.94A.430 Introduction. These standards are intended solely for the guidance of prosecutors in the state of Washington. They are not intended to, do not and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state.

9.94A.440. Evidentiary sufficiency. (1) Decision not to prosecute.

STANDARD: A Prosecuting Attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

GUIDELINES/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** - It may be proper to decline to charge where the statute in question is antiquated in that:

- (i) It has not been enforced for many years; and
- (ii) Most members of society act as if it were no longer in existence; and
- (iii) It serves no deterrent or protective purpose in today's society; and
- (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimus Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to ensure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

Comment

Decision Not to Prosecute: This standard and the examples previously listed were taken in large measure from the 1980 Washington Association of Prosecuting Attorneys' Standards for Charging and Plea Bargaining.

(2) Decision to Prosecute.

STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS

Aggravated Murder
1st Degree Murder
2nd Degree Murder
1st Degree Kidnapping
1st Degree Assault
1st Degree Rape
1st Degree Robbery
1st Degree Statutory Rape
1st Degree Arson
2nd Degree Kidnapping
2nd Degree Assault
2nd Degree Rape
2nd Degree Robbery

1st Degree Burglary
1st Degree Manslaughter
2nd Degree Manslaughter
1st Degree Extortion
Indecent Liberties
2nd Degree Statutory Rape
Incest
Vehicular Homicide
Vehicular Assault
3rd Degree Rape
3rd Degree Statutory Rape
2nd Degree Extortion
1st Degree Promoting Prostitution
Intimidating a Juror
Communication with a Minor
Intimidating a Witness
Intimidating a Public Servant
Bomb Threat (if against person)
3rd Degree Assault
Unlawful Imprisonment
Promoting a Suicide Attempt
Riot (if against person)

CRIMES AGAINST PROPERTY/OTHER CRIMES

2nd Degree Arson
1st Degree Escape
2nd Degree Burglary
1st Degree Theft
1st Degree Perjury
1st Degree Introducing Contraband
1st Degree Possession of Stolen Property
Bribery
Bribing a Witness
Bribe received by a Witness
Bomb Threat (if against property)
1st Degree Malicious Mischief
2nd Degree Theft
2nd Degree Escape
2nd Degree Introducing Contraband
2nd Degree Possession of Stolen Property
2nd Degree Malicious Mischief
1st Degree Reckless Burning
Taking a Motor Vehicle without Authorization
Forgery
2nd Degree Perjury
2nd Degree Promoting Prostitution
Tampering with a Witness
Trading in Public Office
Trading in Special Influence
Receiving/Granting Unlawful Compensation
Bigamy
Eluding a Pursuing Police Vehicle
Wilful Failure to Return from Furlough

Riot (if against property)
Theft of Livestock

ALL OTHER UNCLASSIFIED FELONIES

Comment

Decision to Prosecute: *The law stipulates two standards for the decision to prosecute: one for crimes against persons and the other for crimes against property. The standard for person crimes is intended to require a lower threshold than the standard for property crimes. The different standards reflect a need to set priorities for allocating prosecutorial resources. Crimes against persons are given more emphasis. The term "justify conviction" was chosen for person crimes because it implies a decision which, after objective review of the case, can be defended in court.*

Selection of Charges/Degree of Charge

(1) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

- (a) Will significantly enhance the strength of the state's case at trial; or
- (b) Will result in restitution to all victims.

(2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

- (a) Charging a higher degree;
- (b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

GUIDELINES/COMMENTARY:

Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

- (1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (2) The completion of necessary laboratory tests; and

(3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

- (1) Probable cause exists to believe the suspect is guilty; and
- (2) The suspect presents a danger to the community or is likely to flee if not apprehended; or
- (3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

- (1) Polygraph testing;
- (2) Hypnosis;
- (3) Electronic surveillance;
- (4) Use of informants.

Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

Comment

Selection of Charges/Degree of Charges: This standard covers the issue of how many charges to file and the degree of the charges. The standard directs prosecutors to file charges which "adequately describe the nature of the defendant's conduct," adding that other offenses should be charged for one of two reasons. The term "adequately describe" was chosen over the phrase "accurately describe." Prosecutors are also directed not to overcharge in order to obtain a guilty plea. Although it is difficult to precisely define overcharging, this standard is intended to serve as a strong principle for prosecutors' actions.

Investigation Techniques: The Commission agreed that prosecutors should make an affirmative effort to discover what investigatory techniques were used by the police. The use of certain techniques may influence the relative strength of the case and the filing standard due to potential constitutional challenges.

9.94A.450 Plea dispositions. STANDARD: (1) Except as provided in subsection (2) of this section, a defendant will normally be expected to plead guilty to the charge or charges which adequately describe the nature of his or her criminal conduct or go to trial.

(2) In certain circumstances, a plea agreement with a defendant in exchange for a plea of guilty to a charge or charges that may not fully describe the nature of his or her criminal conduct may be necessary and in the public interest. Such situations may include the following:

(a) Evidentiary problems which make conviction on the original charges doubtful;

(b) The defendant's willingness to cooperate in the investigation or prosecution of others whose criminal conduct is more serious or represents a greater public threat;

(c) A request by the victim when it is not the result of pressure from the defendant;

(d) The discovery of facts which mitigate the seriousness of the defendant's conduct;

(e) The correction of errors in the initial charging decision;

(f) The defendant's history with respect to criminal activity;

(g) The nature and seriousness of the offense or offenses charged;

(h) The probable effect on witnesses.

9.94A.460 Sentence recommendations.

STANDARD:

The prosecutor may reach an agreement regarding sentence recommendations.

The prosecutor shall not agree to withhold relevant information from the court concerning the plea agreement.

Comment

Because the court will have the responsibility of approving plea agreements, the Commission was very concerned that information not be withheld from the court as the result of a plea agreement. This standard prohibits the prosecutor from withholding relevant information from the court as part of any agreement.

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SECTION III. OFFENSE REFERENCE SHEETS

This section includes individual Offense Reference Sheets for all felonies with a standard sentence range. The Offense Reference Sheets indicate the applicable offender scoring rules and available sentencing options. The standard sentence range is displayed.

The sheets are organized alphabetically, except for controlled substances and legend drug violations, which are grouped together. An index for all crimes is included, along with a separate index for the controlled substances and legend drug violations.

In 1987, 13 offense reference sheets were revised due to changes in the law. These offenses are as follows:

- Attempting to Elude a Pursuing Police Vehicle
(change in offense category - felony traffic offense)
- Burglary, Second Degree
(change in cite for offender scoring)
- Criminal Mistreatment, First and Second Degree
(newly ranked crime)
- Escape, First and Second Degree
(change in scoring rules)
- Hit and Run - Injury Accident
(change in definition of Hit & Run - misdemeanor scoring)
- Homicide by Abuse
(new crime)
- Indecent Liberties (without forcible compulsion)
(change in cite)
- Manufacture, Deliver, or Possess with Intent to Deliver a Narcotic from Schedule I or II
(change in sentencing options)
- Over 18 and Deliver a Narcotic from Schedule I or II to Someone Under 18
(change in offense title and elements)
- Vehicular Assault
(change in definition of Hit & Run - misdemeanor scoring)
- Vehicular Homicide
(change in sentencing options)

These 13 revised offense reference sheets have a notation of "SGC 9/87" in the lower left corner. All others read "SGC 8-86, 1987 Edition."

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1:D:SG 3

ADVANCING MONEY OR PROPERTY FOR EXTORTIONATE EXTENSION OF CREDIT
(RCW 9A.82.030)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR ADVANCING MONEY OR PROPERTY FOR EXTORTIONATE EXTENSION OF CREDIT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

AGGRAVATED MURDER, FIRST DEGREE
(RCW 10.95.020)

I. OFFENDER SCORING

ADULT HISTORY:

Not Scored.

JUVENILE HISTORY:

Not Scored.

OTHER CURRENT OFFENSES:

Not Scored.

II. SENTENCE RANGE

A. OFFENDER SCORE: NONE
STANDARD RANGE: Death Penalty or Life sentence without Parole.
(Seriousness Level XIV)

ARSON, FIRST DEGREE
(RCW 9A.48.020)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144
(Seriousness Level VIII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE ARSON

A. Exceptional sentence (RCW 9.94A.120 (2))

ARSON, SECOND DEGREE
(RCW 9A.48.030)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR SECOND DEGREE ARSON

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

ASSAULT, FIRST DEGREE
(RCW 9A.36.010)
SERIOUS VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (9))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent felony convictions _____ x 3 = _____

Enter number of Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent felony adjudications _____ x 3 = _____

Enter number of Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent felony convictions _____ x 3 = _____

Enter number of other Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	62 - 82	69 - 92	77 - 102	85 - 113	93 - 123	100 - 133	129 - 171	139 - 185	159 - 212	180 - 240
(Seriousness Level XI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE ASSAULT

A. Exceptional sentence (RCW 9.94A.120 (2))

ASSAULT, SECOND DEGREE
(RCW 9A.36.020)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR SECOND DEGREE ASSAULT

A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)

B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)

C. Exceptional sentence (RCW 9.94A.120 (2))

ASSAULT, THIRD DEGREE
(RCW 9A.36.030)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR THIRD DEGREE ASSAULT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

Use only for offenses
committed after 7/25/87

ATTEMPTING TO ELUDE PURSUING POLICE VEHICLE
(RCW 46.61.024)
NONVIOLENT TRAFFIC OFFENSE

I. OFFENDER SCORING (RCW 9.94A.360 (11))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Vehicular Homicide convictions* _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____
 Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving
 and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Vehicular Homicide adjudications* _____ x 2 = _____
 Enter number of other felony adjudications. _____ x 1/2 = _____
 Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving
 and Misdemeanor Hit and Run - Attended adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Vehicular Homicide convictions* _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____
 Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving
 and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(11). This section conflicts with RCW 9.94A.330 which also adds two points to the offender score for prior Vehicular Assault convictions.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR ATTEMPTING TO ELUDE PURSUING POLICE VEHICLE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

BRIBE RECEIVED BY WITNESS

(RCW 9A.72.100)

NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR BRIBE RECEIVED BY WITNESS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

BRIBERY
(RCW 9A.68.010)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR BRIBERY

A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))

B. Exceptional sentence (RCW 9.94A.120 (2))

BRIBING A WITNESS
(RCW 9A.72.090)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR BRIBING A WITNESS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

BURGLARY, FIRST DEGREE
(RCW 9A.52.020)
BURGLARY 1 (VIOLENT)

I. OFFENDER SCORING (RCW 9.94A.360 (10))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Burglary 2 convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions, excluding Burglary 2 _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Burglary 2 adjudications _____ x 1 = _____

Enter number of Nonviolent felony adjudications, excluding Burglary 2 _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Burglary 2 convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions, excluding Burglary 2 _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

- B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)
- C. Add 18 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR FIRST DEGREE BURGLARY

- A. Exceptional sentence (RCW 9.94A.120 (2))

BURGLARY, SECOND DEGREE
(RCW 9A.52.030)
BURGLARY 2

I. OFFENDER SCORING (RCW 9.94A.360 (15))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Burglary 1 convictions _____ x 2 = _____
 Enter number of Burglary 2 convictions _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Burglary 1 adjudications _____ x 2 = _____
 Enter number of Burglary 2 adjudications _____ x 1 = _____
 Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Burglary 1 convictions _____ x 2 = _____
 Enter number of other Burglary 2 convictions _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

- B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)
- C. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon and burglary was of a building other than a dwelling (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR SECOND DEGREE BURGLARY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES
(RCW 9.68A.090)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is greater than one year and less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- D. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- E. Exceptional sentence (RCW 9.94A.120 (2))

COMPUTER TRESPASS, FIRST DEGREE
(RCW 9A.52.110)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR FIRST DEGREE COMPUTER TRESPASS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

CRIMINAL MISTREATMENT, FIRST DEGREE
(RCW 9A.42.020)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE CRIMINAL MISTREATMENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

CRIMINAL MISTREATMENT, SECOND DEGREE
(RCW 9A.42.030)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE CRIMINAL MISTREATMENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

DAMAGING BUILDING, ETC., BY EXPLOSION
 WITH THREAT TO HUMAN BEING
 (RCW 70.74.280 (1))
 VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
(Seriousness Level X)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR DAMAGING BUILDING, ETC., BY EXPLOSION WITH THREAT TO HUMAN BEING

A. Exceptional sentence (RCW 9.94A.120 (2))

DAMAGING BUILDING, ETC., BY EXPLOSION WITH
 NO THREAT TO HUMAN BEING
 (RCW 70.74.280 (2))
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR DAMAGING BUILDING, ETC., BY EXPLOSION WITH NO THREAT TO HUMAN BEING

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

DEALING IN DEPICTIONS OF MINOR
 ENGAGED IN SEXUALLY EXPLICIT CONDUCT
 (RCW 9.68A.050)
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR DEALING IN DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

ENDANGERING LIFE AND PROPERTY BY EXPLOSIVES
 WITH THREAT TO HUMAN BEING
 (RCW 70.74.270 (1))
 VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____
 Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____
 Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____
 Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR ENDANGERING LIFE AND PROPERTY BY EXPLOSIVES WITH THREAT TO HUMAN BEING

A. Exceptional sentence (RCW 9.94A.120 (2))

ENDANGERING LIFE AND PROPERTY BY EXPLOSIVES
 WITH NO THREAT TO HUMAN BEING
 (RCW 70.74.270 (2))
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR ENDANGERING LIFE AND PROPERTY BY EXPLOSIVES WITH NO THREAT TO HUMAN BEING

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

Use only for offenses
committed after 7/25/87

ESCAPE, FIRST DEGREE
(RCW 9A.76.110)
ESCAPE

I. OFFENDER SCORING (RCW 9.94A.360 (14))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions* _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications* _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions* _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(14). This section conflicts with RCW 9.94A.330 which counts only prior escape convictions as history.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR FIRST DEGREE ESCAPE

A. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)

B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)

C. Exceptional sentence (RCW 9.94A.120 (2))

Use only for offenses
committed after 7/25/87

ESCAPE, SECOND DEGREE
(RCW 9A.76.120)
ESCAPE

I. OFFENDER SCORING (RCW 9.94A.360 (14))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions* _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications* _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions* _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(14). This section conflicts with RCW 9.94A.330 which counts only prior escape convictions as history.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE ESCAPE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

EXPLOSIVE DEVICES PROHIBITED
 (RCW 70.74.180)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR EXPLOSIVE DEVICES PROHIBITED

A. Exceptional sentence (RCW 9.94A.120 (2))

EXTORTION, FIRST DEGREE
 (RCW 9A.56.120)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE EXTORTION

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

EXTORTION, SECOND DEGREE
(RCW 9A.56.130)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE EXTORTION

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

EXTORTIONATE EXTENSION OF CREDIT
(RCW 9A.82.020)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR EXTORTIONATE EXTENSION OF CREDIT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

EXTORTIONATE MEANS TO COLLECT EXTENSIONS OF CREDIT
(RCW 9A.82.040)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR EXTORTIONATE MEANS TO COLLECT EXTENSIONS OF CREDIT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

FALSE VERIFICATION FOR WELFARE
(RCW 74.08.055)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR FALSE VERIFICATION FOR WELFARE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

FORGERY
(RCW 9A.60.020)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR FORGERY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

HARASSMENT
(RCW 9A.46.020)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR HARASSMENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

HIT AND RUN - INJURY ACCIDENT
(RCW 46.52.020 (4))
NONVIOLENT TRAFFIC OFFENSE

I. OFFENDER SCORING (RCW 9.94A.360 (11))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Vehicular Homicide convictions* _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Vehicular Homicide adjudications* _____ x 2 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving and Misdemeanor Hit and Run - Attended adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Vehicular Homicide convictions* _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(11). This section conflicts with RCW 9.94A.330 which also adds two points to the offender score for prior Vehicular Assault convictions.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR HIT AND RUN - INJURY ACCIDENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

HOMICIDE BY ABUSE
(RCW 9A.32.---)
SERIOUS VIOLENT*

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Violent felony convictions* _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Violent felony adjudications* _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other Violent felony convictions* _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

*Homicide by Abuse was defined as a serious violent crime in RCW 9.94A.030(21), but was not included in the category of offenses scored as serious violent offenses (RCW 9.94A.360(9)).

II. SENTENCING RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	312 - 416	338 - 450	370 - 493	411 - 548
(Seriousness Level XIII) months	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR HOMICIDE BY ABUSE

A. Exceptional sentence (RCW 9.94A.120 (2))

INCEST, FIRST DEGREE
(RCW 9A.64.020 (1))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE INCEST

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. Exceptional sentence (RCW 9.94A.120 (2))

INCEST, SECOND DEGREE
(RCW 9A.64.020 (2))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE INCEST

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is greater than one year and less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- D. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- E. Exceptional sentence (RCW 9.94A.120 (2))

INCITING CRIMINAL PROFITEERING
 (RCW 9A.82.060(1)(b))
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

- B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)
- C. Statutory maximum sentence is 120 months (10 years) (RCW 9A.20.021(1)(b))

III. SENTENCING OPTIONS FOR INCITING CRIMINAL PROFITEERING

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

INDECENT LIBERTIES (WITH FORCIBLE COMPULSION)
 (RCW 9A.44.100 (1)(a))
 VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR INDECENT LIBERTIES (WITH FORCIBLE COMPULSION)

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. Exceptional sentence (RCW 9.94A.120 (2))

INDECENT LIBERTIES (WITHOUT FORCIBLE COMPULSION)
 (RCW 9A.44.100 (1)(b,c,d))
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR INDECENT LIBERTIES (WITHOUT FORCIBLE COMPULSION)

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. Exceptional sentence (RCW 9.94A.120 (2))

INFLUENCING OUTCOME OF SPORTING EVENT
(RCW 9A.82.070)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR INFLUENCING OUTCOME OF SPORTING EVENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

INTIMIDATING A JUDGE
(RCW 9A.72.160)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR INTIMIDATING A JUDGE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

INTIMIDATING A JUROR
(RCW 9A.72.130)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR INTIMIDATING A JUROR

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

INTIMIDATING A PUBLIC SERVANT
(RCW 9A.76.180)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR INTIMIDATING A PUBLIC SERVANT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

INTIMIDATING A WITNESS
(RCW 9A.72.110)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR INTIMIDATING A WITNESS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

INTRODUCING CONTRABAND, FIRST DEGREE
(RCW 9A.76.140)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE INTRODUCING CONTRABAND

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

INTRODUCING CONTRABAND, SECOND DEGREE
(RCW 9A.76.150)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE INTRODUCING CONTRABAND

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

KIDNAPPING, FIRST DEGREE
 (RCW 9A.40.020)
 SERIOUS VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (9))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent felony convictions _____ x 3 = _____

Enter number of Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent felony adjudications _____ x 3 = _____

Enter number of Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent felony convictions _____ x 3 = _____

Enter number of other Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
(Seriousness Level X)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Add 24 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR FIRST DEGREE KIDNAPPING

A. Exceptional sentence (RCW 9.94A.120 (2))

KIDNAPPING, SECOND DEGREE

(RCW 9A.40.030)

VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions x 2 =

Enter number of Nonviolent felony convictions x 1 =

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications x 2 =

Enter number of Nonviolent felony adjudications x 1/2 =

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions x 2 =

Enter number of other Nonviolent felony convictions x 1 =

Total the last column to get the TOTAL OFFENDER SCORE (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR SECOND DEGREE KIDNAPPING

A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)

B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)

C. Exceptional sentence (RCW 9.94A.120 (2))

LEADING ORGANIZED CRIME
(RCW 9A.82.060(1)(a))
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
(Seriousness Level X)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR LEADING ORGANIZED CRIME

A. Exceptional sentence (RCW 9.94A.120 (2))

MALICIOUS HARASSMENT
 (RCW 9A.36.080)
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR MALICIOUS HARASSMENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

MALICIOUS MISCHIEF, FIRST DEGREE
(RCW 9A.48.070)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE MALICIOUS MISCHIEF

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

MALICIOUS MISCHIEF, SECOND DEGREE
(RCW 9A.48.080)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR SECOND DEGREE MALICIOUS MISCHIEF

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

MANSLAUGHTER, FIRST DEGREE

(RCW 9A.32.060)

VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions x 2 =

Enter number of Nonviolent felony convictions x 1 =

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications x 2 =

Enter number of Nonviolent felony adjudications x 1/2 =

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions x 2 =

Enter number of other Nonviolent felony convictions x 1 =

Total the last column to get the TOTAL OFFENDER SCORE (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Statutory maximum sentence is 120 months (10 years) (RCW 9A.20.021 (1)(b))

III. SENTENCING OPTIONS FOR FIRST DEGREE MANSLAUGHTER

A. Exceptional sentence (RCW 9.94A.120 (2))

MANSLAUGHTER, SECOND DEGREE
(RCW 9A.32.070)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE MANSLAUGHTER

A. Exceptional sentence (RCW 9.94A.120 (2))

MURDER, FIRST DEGREE
(RCW 9A.32.030)
SERIOUS VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (9))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent felony convictions _____ x 3 = _____

Enter number of Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent felony adjudications _____ x 3 = _____

Enter number of Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other Serious Violent felony convictions _____ x 3 = _____

Enter number of other Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCING RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	312 - 416	338 - 450	370 - 493	411 - 548
(Seriousness Level XIII) months	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE MURDER

A. Exceptional sentence (RCW 9.94A.120 (2))

MURDER, SECOND DEGREE
(RCW 9A.32.050)
SERIOUS VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (9))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent felony convictions _____ x 3 = _____

Enter number of Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent felony adjudications _____ x 3 = _____

Enter number of Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent felony convictions _____ x 3 = _____

Enter number of other Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	123 - 164	134 - 178	144 - 192	154 - 205	165 - 219	175 - 233	195 - 260	216 - 288	257 - 342	298 - 397
(Seriousness Level XII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR SECOND DEGREE MURDER

A. Exceptional sentence (RCW 9.94A.120 (2))

PATRONIZING A JUVENILE PROSTITUTE
(RCW 9.68A.100)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR PATRONIZING A JUVENILE PROSTITUTE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

PERJURY, FIRST DEGREE
(RCW 9A.72.020)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE PERJURY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

PERJURY, SECOND DEGREE
(RCW 9A.72.030)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE PERJURY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

POSSESSION OF STOLEN PROPERTY, FIRST DEGREE
(RCW 9A.56.150)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE POSSESSION OF STOLEN PROPERTY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

POSSESSION OF STOLEN PROPERTY, SECOND DEGREE
(RCW 9A.56.160)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR SECOND DEGREE POSSESSION OF STOLEN PROPERTY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

PROMOTING PROSTITUTION, FIRST DEGREE
 (RCW 9A.88.070)
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144
(Seriousness Level VIII)	months	months	months	months	months	months	months	months	months	months

- B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)
- C. Statutory maximum sentence is 120 months (10 years) (RCW 9A.20.021 (1)(b))

III. SENTENCING OPTIONS FOR FIRST DEGREE PROMOTING PROSTITUTION

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

PROMOTING PROSTITUTION, SECOND DEGREE
(RCW 9A.88.080)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE PROMOTING PROSTITUTION

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

RAPE, FIRST DEGREE
(RCW 9A.44.040)
SERIOUS VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (9))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent felony convictions _____ x 3 = _____

Enter number of Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent felony adjudications _____ x 3 = _____

Enter number of Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent felony convictions _____ x 3 = _____

Enter number of other Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
(Seriousness Level X)	months	months	months	months	months	months	months	months	months	months

- B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)
- C. Add 24 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR FIRST DEGREE RAPE

- A. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- B. Exceptional sentence (RCW 9.94A.120 (2))

RAPE, SECOND DEGREE
(RCW 9A.44.050)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144
(Seriousness Level VIII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Statutory maximum sentence is 120 months (10 years) (RCW 9A.20.021 (1)(b))

III. SENTENCING OPTIONS FOR SECOND DEGREE RAPE

A. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))

B. Exceptional sentence (RCW 9.94A.120 (2))

RAPE, THIRD DEGREE
(RCW 9A.44.060)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR THIRD DEGREE RAPE

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is greater than one year and less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- D. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- E. Exceptional sentence (RCW 9.94A.120 (2))

RECKLESS BURNING, FIRST DEGREE
(RCW 9A.48.040)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR FIRST DEGREE RECKLESS BURNING

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

RENDERING CRIMINAL ASSISTANCE, FIRST DEGREE
(RCW 9A.76.070)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
(Seriousness Level V)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR FIRST DEGREE RENDERING CRIMINAL ASSISTANCE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

ROBBERY, FIRST DEGREE
(RCW 9A.56.200)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Add 24 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR FIRST DEGREE ROBBERY

A. Exceptional sentence (RCW 9.94A.120 (2))

ROBBERY, SECOND DEGREE
(RCW 9A.56.210)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR SECOND DEGREE ROBBERY

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

SENDING, BRINGING INTO THE STATE, DEPICTIONS
OF A MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT
(RCW 9.68A.060)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SENDING, BRINGING INTO THE STATE,
DEPICTIONS OF A MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

SEXUAL EXPLOITATION, UNDER 16
(RCW 9.68A.040(2)(a))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. Statutory maximum sentence is 120 months (10 years) (RCW 9A.20.021 (1)(b))

III. SENTENCING OPTIONS FOR SEXUAL EXPLOITATION, UNDER 16

A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))

B. Exceptional sentence (RCW 9.94A.120 (2))

SEXUAL EXPLOITATION, UNDER 18
(RCW 9.68A.040(2)(b))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SEXUAL EXPLOITATION, UNDER 18

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

STATUTORY RAPE, FIRST DEGREE
(RCW 9A.44.070)
VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (8))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE STATUTORY RAPE

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. Exceptional sentence (RCW 9.94A.120 (2))

STATUTORY RAPE, SECOND DEGREE
(RCW 9A.44.080)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR SECOND DEGREE STATUTORY RAPE

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. Exceptional sentence (RCW 9.94A.120 (2))

STATUTORY RAPE, THIRD DEGREE
(RCW 9A.44.090)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III) months	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR THIRD DEGREE STATUTORY RAPE

- A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))
- B. If sentence is greater than one year and less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b))
- C. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- D. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- E. Exceptional sentence (RCW 9.94A.120 (2))

TAKING MOTOR VEHICLE WITHOUT PERMISSION
(RCW 9A.56.070)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR TAKING MOTOR VEHICLE WITHOUT PERMISSION

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

TAMPERING WITH A WITNESS

(RCW 9A.72.120)

NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions x 1 =

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications x 1/2 =

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions x 1 =

Total the last column to get the TOTAL OFFENDER SCORE (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR TAMPERING WITH A WITNESS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

THEFT, FIRST DEGREE
(RCW 9A.56.030)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE THEFT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

THEFT, SECOND DEGREE
(RCW 9A.56.040)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR SECOND DEGREE THEFT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

THEFT OF LIVESTOCK, FIRST DEGREE
(RCW 9A.56.080)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE THEFT OF LIVESTOCK

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

THEFT OF LIVESTOCK, SECOND DEGREE
(RCW 9A.56.080)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR SECOND DEGREE THEFT OF LIVESTOCK

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

TRAFFICKING IN STOLEN PROPERTY, FIRST DEGREE
(RCW 9A.82.050(2))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR FIRST DEGREE TRAFFICKING IN STOLEN PROPERTY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

TRAFFICKING IN STOLEN PROPERTY, SECOND DEGREE
(RCW 9A.82.050(1))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR SECOND DEGREE TRAFFICKING IN STOLEN PROPERTY

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

UNLAWFUL IMPRISONMENT
(RCW 9A.40.040)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR UNLAWFUL IMPRISONMENT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

UNLAWFUL ISSUANCE OF CHECKS OR DRAFTS
(RCW 9A.56.060)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR UNLAWFUL ISSUANCE OF CHECKS OR DRAFTS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

UNLAWFUL POSSESSION OF A SHORT FIREARM OR PISTOL

(RCW 9.41.040)

NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR UNLAWFUL POSSESSION OF A SHORT FIREARM OR PISTOL

- A. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

UNRANKED OFFENSE

I. OFFENDER SCORING

ADULT HISTORY:

Not Scored.

JUVENILE HISTORY:

Not Scored.

OTHER CURRENT OFFENSES:

Not Scored.

II. SENTENCE RANGE

A. OFFENDER SCORE: NONE

STANDARD RANGE: Not more than 12 months. (RCW 9.94A.120 (6))
(Seriousness Level - Unranked)

III. SENTENCING OPTIONS FOR UNRANKED OFFENSES

- A. Sentence can include community service work and a term of community supervision not to exceed one year (RCW 9.94A.120 (6))
- B. Exceptional sentence (RCW 9.94A.120 (2) and (6))

USE OF PROCEEDS OF CRIMINAL PROFITEERING
(RCW 9A.82.080(1) and (2))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR USE OF PROCEEDS OF CRIMINAL PROFITEERING

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

VEHICLE PROWL, FIRST DEGREE

(RCW 9A.52.095)

NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR FIRST DEGREE VEHICLE PROWL

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

VEHICULAR ASSAULT
(RCW 46.61.522)
VIOLENT TRAFFIC OFFENSE

I. OFFENDER SCORING (RCW 9.94A.360 (11))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Vehicular Homicide convictions* _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving
and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Vehicular Homicide adjudications* _____ x 2 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving
and Misdemeanor Hit and Run - Attended adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Vehicular Homicide convictions* _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving
and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(11). This section conflicts with RCW 9.94A.330 which also adds two points to the offender score for prior Vehicular Assault convictions.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. Statutory maximum sentence is 60 months (5 years) (RCW 9A.20.021 (1)(c))

III. SENTENCING OPTIONS FOR VEHICULAR ASSAULT

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

Use only for offenses
committed after 7/25/87

VEHICULAR HOMICIDE BY DISREGARD
FOR SAFETY OF OTHERS
(RCW 46.61.520)
NONVIOLENT TRAFFIC OFFENSE

I. OFFENDER SCORING (RCW 9.94A.360 (11))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Vehicular Homicide convictions* _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____
 Enter number of Driving while Intoxicated, Actual Physical Control, Reckless Driving,
 and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Vehicular Homicide adjudications* _____ x 2 = _____
 Enter number of other felony adjudications _____ x 1/2 = _____
 Enter number of Driving while Intoxicated, Actual Physical Control, Reckless Driving,
 and Misdemeanor Hit and Run - Attended adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Vehicular Homicide convictions* _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____
 Enter number of other Driving while Intoxicated, Actual Physical Control, Reckless Driving,
 and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(11). This section conflicts with RCW 9.94A.330 which also adds two points to the offender score for prior Vehicular Assault convictions.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR VEHICULAR HOMICIDE BY DISREGARD FOR SAFETY OF OTHERS

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

VEHICULAR HOMICIDE BY RECKLESSNESS
OR UNDER THE INFLUENCE
(RCW 46.61.520)
VIOLENT TRAFFIC OFFENSE

I. OFFENDER SCORING (RCW 9.94A.360 (11))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Vehicular Homicide convictions* _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving while Intoxicated, Actual Physical Control, Reckless Driving,
and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Vehicular Homicide adjudications* _____ x 2 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

Enter number of Driving while Intoxicated, Actual Physical Control, Reckless Driving,
and Misdemeanor Hit and Run - Attended adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Vehicular Homicide convictions* _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of other Driving while Intoxicated, Actual Physical Control, Reckless Driving,
and Misdemeanor Hit and Run - Attended convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

*This scoring procedure reflects the language of RCW 9.94A.360(11). This section conflicts with RCW 9.94A.330 which also adds two points to the offender score for prior Vehicular Assault convictions.

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
(Seriousness Level VII)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR VEHICULAR HOMICIDE

A. Exceptional sentence (RCW 9.94A.120 (2))

WILFUL FAILURE TO RETURN FROM FURLOUGH
(RCW 72.66.060)
ESCAPE

I. OFFENDER SCORING (RCW 9.94A.360 (13))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Escape 1, Escape 2, Wilful Failure to Return from Furlough, and
Wilful Failure to Return from Work Release convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Escape 1, Escape 2, Wilful Failure to Return from Furlough, and
Wilful Failure to Return from Work Release adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Escape 1, Escape 2, Wilful Failure to Return from Furlough, and
Wilful Failure to Return from Work Release convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR WILFUL FAILURE TO RETURN FROM FURLOUGH

- A. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

WILFUL FAILURE TO RETURN FROM WORK RELEASE
(RCW 72.65.070)
ESCAPE

I. OFFENDER SCORING (RCW 9.94A.360 (13))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Escape 1, Escape 2, Wilful Failure to Return from Furlough, and
Wilful Failure to Return from Work Release convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Escape 1, Escape 2, Wilful Failure to Return from Furlough, and
Wilful Failure to Return from Work Release adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Escape 1, Escape 2, Wilful Failure to Return from Furlough, and
Wilful Failure to Return from Work Release convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

III. SENTENCING OPTIONS FOR WILFUL FAILURE TO RETURN FROM WORK RELEASE

- A. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

**CONTROLLED SUBSTANCES AND LEGEND DRUG
VIOLATIONS**

1:D:SG 3

SGC 9/87

III-102

CREATE, DELIVER, OR POSSESS A COUNTERFEIT CONTROLLED
 SUBSTANCE - SCHEDULE I OR II NARCOTIC
 (RCW 69.50.401 (b)(1)(i))
 FIRST DRUG CONVICTION
 NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____
 Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR CREATE, DELIVER, OR POSSESS A COUNTERFEIT CONTROLLED SUBSTANCE -
 SCHEDULE I OR II NARCOTIC (FIRST DRUG CONVICTION)

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

CREATE, DELIVER, OR POSSESS A COUNTERFEIT
 CONTROLLED SUBSTANCE - SCHEDULE I OR II NARCOTIC
 (RCW 69.50.401 (b)(1)(i))
 SUBSEQUENT DRUG CONVICTION
 VIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____
 Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____
 Enter number of felony Nonviolent Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____
 Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____
 Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR CREATE, DELIVER, OR POSSESS A COUNTERFEIT CONTROLLED SUBSTANCE
 - SCHEDULE I OR II NARCOTIC (SUBSEQUENT DRUG CONVICTION)

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380)
- B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- C. Exceptional sentence (RCW 9.94A.120 (2))

CREATE, DELIVER, OR POSSESS A COUNTERFEIT CONTROLLED SUBSTANCE -
 SCHEDULE III-V NARCOTIC OR SCHEDULE I-V NONNARCOTIC
 (RCW 69.50.401 (b)(1)(ii-iv))
 NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____
 Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____
 Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR CREATE, DELIVER, OR POSSESS A COUNTERFEIT CONTROLLED SUBSTANCE
 - SCHEDULE III-V NARCOTIC OR SCHEDULE I-V NONNARCOTIC

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

FORGED PRESCRIPTION (Legend Drug)
 (RCW 69.41.020)
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR FORGED PRESCRIPTION (Legend Drug)

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

FORGED PRESCRIPTION FOR A CONTROLLED SUBSTANCE
(RCW 69.50.403)
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

B. Statutory maximum sentence for first conviction under RCW 69.50 is 24 months (2 years)(RCW 69.50.403(c))

III. SENTENCING OPTIONS FOR FORGED PRESCRIPTION FOR A CONTROLLED SUBSTANCE

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

Use only for offenses
committed after 7/25/87

MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER
A NARCOTIC FROM SCHEDULE I OR II
(RCW 69.50.401 (a)(1)(i))
FIRST DRUG CONVICTION
NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER
A NARCOTIC FROM SCHEDULE I OR II (FIRST DRUG CONVICTION)

A. Exceptional sentence (RCW 9.94A.120 (2))

MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER
 A NARCOTIC FROM SCHEDULE I OR II
 (RCW 69.50.401 (a)(1)(i))
 SUBSEQUENT DRUG CONVICTION
 VIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of felony Nonviolent Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER A NARCOTIC
 FROM SCHEDULE I OR II (SUBSEQUENT DRUG CONVICTION)

A. Exceptional sentence (RCW 9.94A.120 (2))

MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER
 A NARCOTIC FROM SCHEDULE III-V OR NONNARCOTIC FROM SCHEDULE I-V
 (EXCEPT MARIJUANA)
 (RCW 69.50.401 (a)(1)(ii-iv))
 NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
(Seriousness Level IV)	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

C. Statutory maximum sentence for first conviction under RCW 69.50 is 60 months (5 years) (RCW 69.50.401 (a)(1)(ii-iv))

III. SENTENCING OPTIONS FOR MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER
 A NARCOTIC FROM SCHEDULE III-V OR NONNARCOTIC FROM SCHEDULE I-V (EXCEPT MARIJUANA)

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

MANUFACTURE, DELIVER, OR POSSESS
WITH INTENT TO DELIVER MARIJUANA
(RCW 69.50.401 (a)(1)(ii))
NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
(Seriousness Level III)	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

C. Statutory maximum sentence for first conviction under RCW 69.50 is 60 months (5 years) (RCW 69.50.401 (a)(1)(ii))

III. SENTENCING OPTIONS FOR MANUFACTURE, DELIVER, OR POSSESS WITH INTENT TO DELIVER MARIJUANA

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

OVER 18 AND DELIVER A NARCOTIC FROM SCHEDULE I OR II
TO SOMEONE UNDER 18
(RCW 69.50.406)
VIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications _____ x 2 = _____

Enter number of felony Nonviolent Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions _____ x 2 = _____

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
(Seriousness Level X)	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

III. SENTENCING OPTIONS FOR OVER 18 AND DELIVER A NARCOTIC FROM
SCHEDULE I OR II TO SOMEONE UNDER 18

A. Exceptional sentence (RCW 9.94A.120 (2))

OVER 18 AND DELIVER A NARCOTIC FROM SCHEDULE III-V OR
 NONNARCOTIC FROM SCHEDULE I-V TO SOMEONE
 UNDER 18 AND 3 YEARS JUNIOR
 (RCW 69.50.406)
 NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
(Seriousness Level IX)	months	months	months	months	months	months	months	months	months	months

- B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)
- C. Statutory maximum sentence is 120 months (10 years) (RCW 69.50.406)

III. SENTENCING OPTIONS FOR OVER 18 AND DELIVER A NARCOTIC FROM SCHEDULE III-V OR NONNARCOTIC
 FROM SCHEDULE I-V TO SOMEONE UNDER 18 AND 3 YEARS JUNIOR

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

POSSESSION OF A CONTROLLED SUBSTANCE THAT IS
 A NARCOTIC FROM SCHEDULE I OR II
 (RCW 69.50.401 (d))
 NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 90	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
(Seriousness Level II)	days	months	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR POSSESSION OF CONTROLLED SUBSTANCE THAT IS A NARCOTIC FROM SCHEDULE I OR II

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

POSSESSION OF A CONTROLLED SUBSTANCE THAT IS A NARCOTIC FROM SCHEDULE III, IV, OR V
OR A NONNARCOTIC FROM SCHEDULE I-V
(RCW 69.50.401 (d))
NONVIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (7))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	0 - 60	0 - 90	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29
(Seriousness Level I)	days	days	months	months	months	months	months	months	months	months

III. SENTENCING OPTIONS FOR POSSESSION OF A CONTROLLED SUBSTANCE THAT IS A NARCOTIC
FROM SCHEDULE III, IV, OR V OR A NONNARCOTIC FROM SCHEDULE I-V

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. One day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380)
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383)
- D. Exceptional sentence (RCW 9.94A.120 (2))

SELLING FOR PROFIT SCHEDULE I CONTROLLED
OR COUNTERFEIT SUBSTANCE (EXCEPT HEROIN)
(RCW 69.50.410 (2))
NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
(Seriousness Level VI)	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

C. Statutory maximum sentence for first conviction for this crime is 60 months (5 years) (RCW 69.50.410 (2))

III. SENTENCING OPTIONS FOR SELLING FOR PROFIT SCHEDULE I
CONTROLLED OR COUNTERFEIT SUBSTANCE (EXCEPT HEROIN)

A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))

B. Exceptional sentence (RCW 9.94A.120 (2))

SELLING HEROIN FOR PROFIT
(RCW 69.50.410 (3))
NONVIOLENT DRUG

I. OFFENDER SCORING (RCW 9.94A.360 (12))

ADULT HISTORY: (If the prior offense was committed BEFORE 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed AFTER 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) _____ x 1 = _____

Enter number of other felony adjudications _____ x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE
(round down to the nearest whole number)

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE:	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144
(Seriousness Level VIII) months	months	months	months	months	months	months	months	months	months	months

B. Add 12 months to the entire standard sentence range with a special verdict/finding that the offender or an accomplice was armed with a deadly weapon (RCW 9.94A.310, 9.94A.125)

C. Statutory maximum sentence for this crime is 60 months (5 years) for the first conviction under RCW 69.50 and 120 months (10 years) for the second conviction under RCW 69.50 (RCW 69.50.410(2)).

III. SENTENCING OPTIONS FOR SELLING HEROIN FOR PROFIT

- A. If "First-time offender" eligible: 0-90 days confinement and up to two years of community supervision with conditions (RCW 9.94A.120 (5))
- B. Exceptional sentence (RCW 9.94A.120 (2))

IV. SENTENCING FORMS

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SCORING FORMS

The scoring forms are designed for submission to the court. The forms are categorized according to the ten types of offender scoring rules:

Burglary 1	Nonviolent Drug
Burglary 2	Violent
Escape	Violent Drug
Felony Traffic	Serious Violent
Nonviolent	Unranked

The Offense Scoring Categories (Table 5, next page) show the crimes in each of these categories. The top of each Scoring Form also indicates which offenses apply to that form.

TABLE 5
OFFENSE SCORING CATEGORIES

OFFENSE SERIOUSNESS LEVEL	OFFENSE TITLE	RCW
***** SERIOUS VIOLENT *****		
XIV	Aggravated Murder 1	10.95.020
XI	Assault 1	9A.36.010
XIII	Homicide By Abuse (score as violent offense)	9A.32.
X	Kidnapping 1	9A.40.020
XIII	Murder 1	9A.32.030
XII	Murder 2	9A.32.050
X	Rape 1	9A.44.040
***** VIOLENT *****		
VIII	Arson 1	9A.48.020
IV	Arson 2	9A.48.030
IV	Assault 2	9A.36.020
X	Damaging Building, Etc., by Explosion with Threat to Human Being	70.74.280(1)
IX	Endangering Life and Property by Explosives with Threat to Human Being	70.74.270(1)
IX	Explosive Devices Prohibited	70.74.180
V	Extortion 1	9A.56.120
VII	Indecent Liberties (with Forcible Compulsion)	9A.44.100(1)(a)
V	Kidnapping 2	9A.40.030
X	Leading Organized Crime	9A.82.060(1)(a)
IX	Manslaughter 1	9A.32.060
VI	Manslaughter 2	9A.32.070
VIII	Rape 2	9A.44.050
IX	Robbery 1	9A.56.200
IV	Robbery 2	9A.56.210
IX	Statutory Rape 1	9A.44.070
***** FELONY TRAFFIC *****		
I	Attempting to Elude Pursuing Police Vehicle	46.61.024
IV	Hit and Run - Injury Accident	46.52.020(4)
IV	Vehicular Assault	46.61.522
VII	Vehicular Homicide	46.61.520
***** BURGLARY I ***** (Violent)		
VII	Burglary 1	9A.52.020
***** VIOLENT DRUG *****		
II	Create, Deliver, or Possess a Counterfeit Controlled Substance - Schedule I or II Narcotic (Subsequent Drug Conviction)	69.50.401(b)(1)(i)
VI	Manufacture, Deliver, or Possess with Intent to Deliver a Narcotic from Schedule I or II (Subsequent Drug Conviction)	69.50.401(a)(1)(i)
X	Over 18 and Deliver a Narcotic from Schedule I or II to Someone Under 18	69.50.406

OFFENSE
SERIOUSNESS
LEVEL

OFFENSE TITLE

RCW

***** NONVIOLENT DRUG *****

II	Create, Deliver, or Possess a Counterfeit Controlled Substance - Schedule I or II Narcotic (First Drug Conviction Only)	69.50.401(b)(1)(i)
II	Create, Deliver, or Possess a Counterfeit Controlled Substance - Schedule III-V Narcotic or Schedule I - V Nonnarcotic	69.50.401(b)(1)(ii-iv)
---	Forged Prescription (see NONVIOLENT category)	
IV	Manufacture, Deliver or Possess with Intent to Deliver a Narcotic from Schedule III-V or a Nonnarcotic from Schedule I-V (Except Marijuana)	69.50.401(a)(1)(ii-iv)
VI	Manufacture, Deliver, or Possess with Intent to Deliver a Narcotic from Schedule I or II (First Drug Conviction Only)	69.50.401(a)(1)(i)
III	Manufacture, Deliver, or Possess with Intent to Deliver Marijuana	69.50.401(a)(1)(ii)
IX	Over 18 and Deliver a Narcotic from Schedule III-V or a Nonnarcotic from Schedule I-V to Someone Under 18 and 3 Years Junior	69.50.406
---	Possess Controlled Substance (see NONVIOLENT category)	
VI	Selling for Profit Schedule I Controlled or Counterfeit Substance (Except Heroin)	69.50.410(2)
VIII	Selling Heroin for Profit	69.50.410(3)

***** ESCAPE *****

(Nonviolent)

IV	Escape 1 (score as nonviolent offense)	9A.76.110
III	Escape 2 (score as nonviolent offense)	9A.76.120
IV	Wilful Failure to Return from Furlough	72.66.060
III	Wilful Failure to Return from Work Release	72.65.070

***** BURGLARY 2 *****

(Nonviolent)

II	Burglary 2	9A.52.030
----	------------	-----------

***** NONVIOLENT *****

V	Advancing Money or Property for Extortionate Extension of Credit	9A.82.030
III	Assault 3	9A.36.030
IV	Bribe Received by Witness	9A.72.100
VI	Bribery	9A.68.010
IV	Bribing a Witness	9A.72.090
III	Communication with a Minor for Immoral Purposes	9.68A.090
II	Computer Trespass 1	9A.52.110
V	Criminal Mistreatment 1	9A.42.020
III	Criminal Mistreatment 2	9A.42.030
VI	Damaging Building, Etc., by Explosion with no Threat to Human Being	70.74.280(2)

OFFENSE
SERIOUSNESS
LEVEL

OFFENSE TITLE

RCW

***** NONVIOLENT *****
(Continued)

VII	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct	9.68A.050
VI	Endangering Life and Property by Explosives with no Threat to Human Being	70.74.270(2)
III	Extortion 2	9A.56.130
V	Extortionate Extension of Credit	9A.82.020
V	Extortionate Means to Collect Extensions of Credit	9A.82.040
I	False Verification for Welfare	74.08.055
I	Forged Prescription (Legend Drug)	69.41.020
I	Forged Prescription for a Controlled Substance	69.50.403
I	Forgery	9A.60.020
III	Harassment	9A.46.020
VI	Incest 1	9A.64.020(1)
V	Incest 2	9A.64.020(2)
IX	Inciting Criminal Profiteering	9A.82.060(1)(b)
VI	Indecent Liberties (without forcible compulsion)	9A.44.100(1)(b,c,d)
IV	Influencing Outcome of a Sporting Event	9A.82.070
VI	Intimidating a Judge	9A.72.160
VI	Intimidating a Juror	9A.72.130
III	Intimidating a Public Servant	9A.76.180
VI	Intimidating a Witness	9A.72.110
VII	Introducing Contraband 1	9A.76.140
III	Introducing Contraband 2	9A.76.150
IV	Knowingly Trafficking in Stolen Property	9A.82.050(2)
IV	Malicious Harassment	9A.36.080
II	Malicious Mischief 1	9A.48.070
I	Malicious Mischief 2	9A.48.080
III	Patronizing a Juvenile Prostitute	9.68A.100
V	Perjury 1	9A.72.020
III	Perjury 2	9A.72.030
II	Possession of a Controlled Substance that is a Narcotic from Schedule I or II	69.50.401(d)
I	Possession of a Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V	69.50.401(d)
II	Possession of Stolen Property 1	9A.56.150
I	Possession of Stolen Property 2	9A.56.160
VIII	Promoting Prostitution 1	9A.88.070
III	Promoting Prostitution 2	9A.88.080
V	Rape 3	9A.44.060
I	Reckless Burning 1	9A.48.040
III	Recklessly Trafficking in Stolen Property	9A.82.050(1)
V	Rendering Criminal Assistance 1	9A.76.070
VII	Sending, Bringing Into the State Depictions of Minor Engaged in Sexually Explicit Conduct	9.68A.060
IX	Sexual Exploitation, Under 16	9.68A.040(2)(a)
VII	Sexual Exploitation, Under 18	9.68A.040(2)(b)
VII	Statutory Rape 2	9A.44.080
III	Statutory Rape 3	9A.44.090
I	Taking Motor Vehicle Without Permission	9A.56.070

OFFENSE
SERIOUSNESS
LEVEL

OFFENSE TITLE

RCW

***** NONVIOLENT *****
(Continued)

III	Tampering with a Witness	9A.72.120
II	Theft 1	9A.56.030
I	Theft 2	9A.56.040
III	Theft of Livestock 1	9A.56.080
II	Theft of Livestock 2	9A.56.080
III	Unlawful Imprisonment	9A.40.040
I	Unlawful Issuance of Checks or Drafts	9A.56.060
III	Unlawful Possession of a Short Firearm or Pistol	9.41.040
IV	Use of Proceeds of Criminal Profiteering	9A.82.080(1) and (2)
I	Vehicle Prowl 1	9A.52.095

SENTENCING GUIDELINES SCORING FORM
Burglary 1 Offenses

Use this form only for Burglary 1 offenses.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before** 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions x 2 = _____
 Enter number of Burglary 2 convictions x 2 = _____
 Enter number of Nonviolent felony convictions, excluding Burglary 2 x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent and Violent felony adjudications x 2 = _____
 Enter number of Burglary 2 adjudications x 1 = _____
 Enter number of Nonviolent felony adjudications, excluding Burglary 2 x 1/2 = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions x 2 = _____
 Enter number of other Burglary 2 convictions x 2 = _____
 Enter number of other Nonviolent felony convictions, excluding Burglary 2 x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

<u>Burglary 1</u>	<u>VII</u>	<u>OFFENDER</u>	<u>TO</u>	<u>LOW</u>	<u>HIGH</u>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	SCORE		STANDARD	SENTENCE RANGE

*Multiply the range by .75 if the current offense is for an attempt, conspiracy, or solicitation.

*Add 18 months to the standard range if there is a special verdict/finding for deadly weapon.

SENTENCING GUIDELINES SCORING FORM Burglary 2 Offenses

Use this form only for Burglary 2 offenses.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before** 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Burglary 1 convictions x 2 = _____

Enter number of Burglary 2 convictions x 2 = _____

Enter number of other felony convictions x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Burglary 1 adjudications x 2 = _____

Enter number of Burglary 2 adjudications x 1 = _____

Enter number of other felony adjudications x ½ = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other Burglary 1 convictions x 2 = _____

Enter number of other Burglary 2 convictions x 2 = _____

Enter number of other felony convictions x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

Burglary 2	II		TO
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	LOW STANDARD HIGH SENTENCE RANGE

*Multiply the range by .75 if the current offense is for an attempt, conspiracy, or solicitation.

*Add 12 months to the standard range if the current offense is Burglary 2 of a nondeadly AND there is a special verdict/finding for deadly weapon.

SENTENCING GUIDELINES SCORING FORM Escape Offenses

Use this form only for the following offenses: Wilful Failure to Return from Furlough; Wilful Failure to Return from Work Release.
Score Escape 1 and Escape 2 as nonviolent offenses.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before** 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Escape 1, Escape 2, Wilful Failure to Return from Furlough, and Wilful Failure to Return from Work Release Convictions x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Escape 1, Escape 2, Wilful Failure to Return from Furlough, and Wilful Failure to Return from Work Release Adjudications x 1/2 = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other Escape 1, Escape 2, Wilful Failure to Return from Furlough, and Wilful Failure to Return from Work Release Convictions x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	TO
			LOW HIGH
			STANDARD SENTENCE RANGE

*Multiply the range by .75 if the current offense is for an attempt, conspiracy, or solicitation.

SENTENCING GUIDELINES SCORING FORM Felony Traffic Offenses

Use this form only for the following offenses: Attempting to Elude Pursuing Police Vehicle; Hit and Run—Injury Accident; Vehicular Assault; Vehicular Homicide.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before 7/1/86**, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after 7/1/86**, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Vehicular Homicide convictions _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving, and Misdemeanor Hit and Run-Attended convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Vehicular Homicide adjudications _____ x 2 = _____

Enter number of other felony adjudications _____ x ½ = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving, and Misdemeanor Hit and Run-Attended adjudications _____ x ½ = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other Vehicular Homicide convictions _____ x 2 = _____

Enter number of other felony convictions _____ x 1 = _____

Enter number of Driving While Intoxicated, Actual Physical Control, Reckless Driving, and Misdemeanor Hit and Run-Attended convictions _____ x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	TO LOW HIGH STANDARD SENTENCE RANGE
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SENTENCING GUIDELINES SCORING FORM
Nonviolent Offenses

Use this form only for the following offenses: Advancing Money or Property for Extortionate Extension of Credit; Assault 3; Bribe Received by Witness; Bribery; Bribing a Witness; Communication with a Minor for Immoral Purposes; Computer Trespass 1; Criminal Mistreatment 1; Criminal Mistreatment 2; Damaging Building, etc. by Explosion with no Threat to Human Being; Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct; Endangering Life and Property by Explosives with no Threat to Human Being; Escape 1; Escape 2; Extortion 2; Extortionate Extension of Credit; Extortionate Means to Collect Extensions of Credit; False Verification for Welfare; Forged Prescription (Legend Drug); Forged Prescription for a Controlled Substance; Forgery; Harassment; Incest 1; Incest 2; Inciting Criminal Profiteering; Indecent Liberties (without forcible compulsion); Influencing Outcome of a Sporting Event; Intimidating a Judge; Intimidating a Juror; Intimidating a Public Servant; Intimidating a Witness; Introducing Contraband 1; Introducing Contraband 2; Knowingly Trafficking in Stolen Property; Malicious Harassment; Malicious Mischief 1; Malicious Mischief 2; Patronizing a Juvenile Prostitute; Perjury 1; Perjury 2; Possession of a Controlled Substance that is a Narcotic from Schedule I or II; Possession of a Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V; Possession of Stolen Property 1; Possession of Stolen Property 2; Promoting Prostitution 1; Promoting Prostitution 2; Rape 3; Reckless Burning 1; Recklessly Trafficking in Stolen Property; Rendering Criminal Assistance 1; Sending, Bringing Into the State Depictions of Minor Engaged in Sexually Explicit Conduct; Sexual Exploitation, Under 16; Sexual Exploitation, Under 18; Statutory Rape 2; Statutory Rape 3; Taking Motor Vehicle Without Permission; Tampering with a Witness; Theft 1; Theft 2; Theft of Livestock 1; Theft of Livestock 2; Unlawful Imprisonment; Unlawful Issuance of Checks or Drafts; Unlawful Possession of a Short Firearm or Pistol; Use of Proceeds of Criminal Profiteering; Vehicle Prowl 1.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before** 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony adjudications x 1/2 = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other felony convictions x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	TO	HIGH
			LOW	
			STANDARD	
			SENTENCE RANGE	

*Multiply the range by .75 if the current offense is for an attempt, conspiracy, or solicitation. For Possession of a Controlled Substance or Forged Prescription of a Controlled Substance, see RCW 69.50.407.

*Add 12 months to the standard range if the current offense is Escape 1 AND there is a special verdict/finding for deadly weapon.

SENTENCING GUIDELINES SCORING FORM Nonviolent Drug Offenses

Use this form only for the following offenses: Create, Deliver, or Possess a Counterfeit Controlled Substance—Schedule I or II Narcotic (first drug conviction only); Create, Deliver, or Possess a Counterfeit Controlled Substance—Schedule III-V Narcotic or Schedule I-V Nonnarcotic; Manufacture, Deliver, or Possess with Intent to Deliver a Narcotic from Schedule I or II (first drug conviction only); Manufacture, Deliver, or Possess with Intent to Deliver a Narcotic from Schedule III-V or Nonnarcotic from Schedule I-V (except marijuana); Manufacture, Deliver, or Possess with Intent to Deliver Marijuana; Over 18 and Deliver Narcotics from Schedule III-V or a Nonnarcotic from Schedule I-V to Someone Under 18 and 3 Years Junior; Selling for Profit Schedule I Controlled or Counterfeit Substance (except heroin); Selling Heroin for Profit.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before** 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony Drug convictions (as defined by RCW 9.94A.030(11)) x 2 = _____

Enter number of other felony convictions x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of felony Drug adjudications (as defined by RCW 9.94A.030(11)) x 1 = _____

Enter number of other felony adjudications x ½ = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other felony Drug convictions (as defined by RCW 9.94A.030(11)) x 2 = _____

Enter number of other felony convictions x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	TO
			LOW HIGH STANDARD SENTENCE RANGE

*Add 12 months to the standard range if there is a special verdict/finding for deadly weapon.

SENTENCING GUIDELINES SCORING FORM Violent Offenses

Use this form only for the following offenses: Arson 1; Arson 2; Assault 2; Damaging Building Etc. by Explosion with Threat to Human Being; Endangering Life and Property by Explosives with Threat to Human Being; Explosive Devices Prohibited; Extortion 1; Homicide by Abuse; Indecent Liberties (with forcible compulsion); Kidnapping 2; Leading Organized Crime; Manslaughter 1; Manslaughter 2; Rape 2; Robbery 1; Robbery 2; Statutory Rape 1.

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before 7/1/86**, count prior adult offenses served concurrently as **ONE** offense; those served consecutively are counted separately. If both current and prior offenses were committed **after 7/1/86**, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent and Violent felony convictions x 2 = _____
 Enter number of Nonviolent felony convictions x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as **ONE** offense)

Enter number of Serious Violent and Violent felony adjudications x 2 = _____
 Enter number of Nonviolent felony adjudications x ½ = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other Serious Violent and Violent felony convictions x 2 = _____
 Enter number of other Nonviolent felony convictions x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
 (round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	TO LOW HIGH STANDARD SENTENCE RANGE
------------------------------	----------------------	-------------------	---

*Multiply the range by .75 if the current offense is for an attempt, conspiracy, or solicitation.

*Add 24 months to the standard range if the current offense is Robbery 1 AND there is a **special verdict/finding** for deadly weapon.

*Add 12 months to the standard range if the current offense is Assault 2 or Kidnapping 2 AND there is a **special verdict/finding** for deadly weapon.

SENTENCING GUIDELINES SCORING FORM Serious Violent Offenses

*Use this form only for the following offenses: Assault 1; Kidnapping 1; Murder 1; Murder 2; and Rape 1.
Score Homicide by Abuse as a Violent Offense.*

OFFENDER'S NAME	OFFENDER'S DOB	STATE ID #
JUDGE	CAUSE #	FBI ID #

ADULT HISTORY: (If the prior offense was committed **before** 7/1/86, count prior adult offenses served concurrently as ONE offense; those served consecutively are counted separately. If both current and prior offenses were committed **after** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of Serious Violent felony convictions _____ x 3 = _____

Enter number of Violent felony convictions _____ x 2 = _____

Enter number of Nonviolent felony convictions _____ x 1 = _____

JUVENILE HISTORY: (All adjudications entered on the same date count as ONE offense)

Enter number of Serious Violent felony adjudications _____ x 3 = _____

Enter number of Violent felony adjudications _____ x 2 = _____

Enter number of Nonviolent felony adjudications _____ x ½ = _____

OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct count in offender score)

Enter number of other Serious Violent felony convictions _____ x 3 = _____

Enter number of other Violent felony convictions _____ x 2 = _____

Enter number of other Nonviolent felony convictions _____ x 1 = _____

Add the scores in each category **TOTAL OFFENDER SCORE**
(round down to the nearest whole number)

STANDARD SENTENCE RANGE CALCULATION*

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	TO LOW HIGH STANDARD SENTENCE RANGE
------------------------------	----------------------	-------------------	---

*Multiply the range by .75 if the current offense is for an attempt, conspiracy, or solicitation.

*Add 24 months to the standard range if the current offense is Rape 1 or Kidnapping 1 AND there is a special verdict/finding for deadly weapon.

JUDGMENT AND SENTENCE FORMS

INSTRUCTIONS TO THE WPF REVISED JUDGMENT AND SENTENCE FORM

I. FORMAT OF THE FORM

Before attempting to complete the pattern Judgment and Sentence Form, the user should be familiar with the general format of the form. In particular, attention should be paid to the following:

- A. The Standard and Alternative Pages -- The first two pages of the Judgment and Sentence Form are standard. These pages are to be used with every sentence regardless of the type of sentence the court imposes. The Sentencing Form shown in these instructions has five alternative pages. These alternative pages correspond to the various sentencing options the court has under the Sentencing Reform Act. The rationale behind using standard and alternative pages is that this method allows a substantial portion of the sentencing paperwork to be completed in advance by the Prosecutor without having to second-guess the court, thus saving valuable court time.
- B. The Appendices to the Form -- The appendices to the form represent an effort to limit the size of the main body of the form. In those cases where the space on the form is insufficient for the information requested, the use of individual appendices allow space for that information. If the extra space provided by the appendices had been incorporated into the main body of the Judgment and Sentence Form, the sentencing form would have been 13 to 14 pages in length.
- C. The Pattern Plea Agreement -- The Plea Agreement form developed by the Pattern Forms Committee closely tracks the Judgment and Sentence Form. This allows the Plea Agreement to be used as a guide in completing the Judgment and Sentence Form in cases where a Plea Agreement has been reached. The Plea Agreement form has not been included in this manual. It is available from the Administrator for the Courts.

II. COMPLETING THE PATTERN JUDGMENT AND SENTENCE FORM

The remaining pages of these instructions highlight sections of the Judgment and Sentence Form where problems occur in completing the Form or where it is less than clear what information is being requested.

1. The S.I.D. Number -- If the Sentencing Reform Act is to function as intended, it is imperative that the S.I.D. number provided by the State Patrol be recorded on the sentencing form. If there is difficulty in obtaining this number, contact the State Patrol at (206) 753-0230.
2. Type of Verdict -- The type of verdict is often overlooked in completing the Judgment and Sentence Form. The Form must indicate whether the offender was guilty by plea, jury verdict or non-jury verdict.
3. Current offenses -- The complete date of the crime should be indicated and the specific crime for which the offender was convicted, recorded. Drug convictions are a major problem area. Be sure to clarify the type of drug or schedule for VUCSA convictions. (Note the new Crime Codes, which will be available shortly, should alleviate this problem.)
4. Deadly Weapon Finding -- Deadly weapon findings should be explicitly indicated by specifically listing the counts to which the finding applies.
5. Current Convictions With Different Cause Numbers -- Other current offenses having different cause numbers should be listed, if these offenses are used in calculating the offender score.
6. Same Criminal Conduct Counted As One Crime -- Separate current crimes encompassing the same criminal conduct should be clearly recorded if these crimes are counted as one crime in calculating the offender score.
7. Criminal History -- Only those prior convictions which were used in calculating the offender's score should be included here.
8. Prior Convictions Counted As One Offense -- Those prior convictions listed as criminal history which were served concurrently and counted as one offense in determining the offender score should be indicated.

WV CR 4000 (1/81) OR 4-27

SUPERIOR COURT OF WASHINGTON COUNTY OF _____

STATE OF WASHINGTON.

Plaintiff,
vs.
Defendant.

SID No: ①

NO.
JUDGMENT AND SENTENCE
(FELONY)

I. HEARING

1.1 A sentencing hearing in this case was held: _____
 1.2 Present were:
 Defendant: _____
 Defendant's Lawyer:
 (Deputy) Prosecuting Attorney: _____
 Other: _____
 1.3 The state has moved for dismissal of Court(s) _____
 1.4 Defendant was asked if there was any legal cause why judgment should not be pronounced, and none was shown.

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report, and case record to date, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on _____ (②) by (plea) (jury-verdict) (bench trial) at

③ Court No. _____ Crime: _____
 RCW _____ Crime Code _____
 Date of Crime _____ Incident No. _____

Court No. _____ Crime: _____
 RCW _____ Crime Code _____
 Date of Crime _____ Incident No. _____

Court No. _____ Crime: _____
 RCW _____ Crime Code _____
 Date of Crime _____ Incident No. _____

④ Additional current offenses are attached in Appendix A.
 ⑤ With a special verdict/finding for use of deadly weapon on Count(s).
 ⑥ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number).

Current offenses encompassing the same criminal conduct and covering as one crime in determining the offender score are (RCW 9A4A.00111)

2.2 CRIMINAL HISTORY Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9A4A.300)

Crime	Sentencing Date	Adult or Juv. Crime	Date of Crime	Crime Type
⑦ _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

⑧ Additional criminal history is attached in Appendix B.
 Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9A4A.360(1)(i))

JUDGMENT AND SENTENCE (FELONY)
 (RCW 9A4A.110, 120)

JS
Page 1 of 4

9. Offender Score -- The most common error made in determining the offender score occurs in how multiple current convictions are counted. Pursuant to RCW 9.94A.400(1), whenever a person is convicted of two or more offenses, the sentence range for each offense shall be determined by using all other current and prior convictions as criminal history, except where a person is convicted of three or more serious violent offenses arising from separate and distinct criminal conduct. In such a case, the sentence range for the offense with the highest seriousness level shall be determined using the offender's prior convictions as criminal history and the sentence range for other serious violent offenses shall be determined by using a criminal history of zero. Separate crimes encompassing the same criminal conduct shall be counted as one crime in determining history.

WSP CR-61089 (1/94) DS A-229

2.3 SENTENCING DATA: **9**

Offense Score	Seriousness Level	Range	Maximum Term
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Additional current offense sentencing data is attached in Appendix C.
 Substantial and compelling reasons exist which justify a sentence (above) (below) the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix D.

2.4 EXCEPTIONAL SENTENCE:

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the crimes of: _____

IV. ORDER

IT IS ORDERED that defendant serve the determined sentence and abide by the conditions set forth below

4.1 Defendant shall pay to the Clerk of this Court:

(a) \$ _____ Court costs;
 (b) \$ _____ Victim assessment;
 (c) \$ _____ Total amount restitution (with credit for amounts paid by co-defendant(s)) to: _____

_____ \$ _____
 _____ \$ _____

The court has not ordered restitution. (See clerk's minutes.)
 Schedule of Restitution is attached as Appendix E.

(d) \$ _____ Recoupment for attorney's fees to _____
 (e) \$ _____ Fine;
 (f) \$ _____ Drug enforcement fund;
 (g) \$ _____ Other costs for _____

(h) \$ _____ TOTAL monetary obligations.

(i) Payments shall be made to _____ County Superior Court according to the rules of the clerk and the following terms:
 Not less than \$ _____ per month;
 On a schedule established by the defendant's community corrections officer.

The clerk of the court shall credit monetary payments to the above obligations in the above-issued order and shall forward restitution payments to the persons listed in paragraph 4.1(c).

(j) The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections pursuant to RCW 9.94A.120(1) for a period up to ten years to assure payment of the above restitution.

4.2 The court DISMISSES Count(s) _____

JUDGMENT AND SENTENCE (FFLONY)
 (RCW 9.94A.110, 120)

JS
 Page 2 of 4

A.3 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows commencing _____ (Date)

_____ months for Count No. _____
_____ months for Count No. _____
_____ months for Count No. _____

- The terms in Counts No. _____ are (concurrent) (consecutive).
- The sentence herein shall run (concurrently) (consecutively) with the sentence in _____
- Total number of months of confinement ordered is _____
- Credit is given for (time) (_____ days) served.

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference.

- Appendix A, Additional Current Offense per paragraph 2.1
- Appendix B, Additional Criminal History per paragraph 2.2
- Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3
- Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
- Appendix E, Schedule of Restitution per paragraph 4.1(e)

Date: _____

Presented by: _____ Approved as to form: _____

Deputy Prosecuting Attorney

Lawyer for Defendant

10. Alternative Conversion -- Under alternative conversion, the total confinement ordered as the determinate sentence may be converted to partial confinement or community service. If the total confinement is to be converted to partial confinement, the court may simply substitute one day of partial confinement for one day of total confinement. If the total confinement is to be converted to community service, eight hours of community service may be substituted for one day of total confinement. (This conversion applies only to offenders convicted of non-violent offenses.) The community service conversion is limited, however, to 240 hours or 30 days. The sentence may combine conversions. For example, a term of 180 days total confinement may be converted to 150 days partial confinement and 30 days of community service. When converting, care should be taken that the conversions add up. (E.g., 30 days of total confinement cannot be converted to 60 days partial confinement; 10 days of total confinement cannot be converted to 160 hours of community service; 12 months total confinement adds up to 365 days, not 360; if 360 days of partial confinement are ordered, technically 5 days of total confinement must be served.)

11. Community Supervision -- On all sentences of confinement for one year or less the court may impose up to one year of community supervision.

12. Other Conditions -- The court should list other conditions it wishes to impose upon the offender. These could include that the offender participate in a work release program if eligible, or comply with other crime related prohibitions during partial confinement, if partial confinement is ordered.

WV CR-646(2) (5/86) OR A-22

4.1 CONFINEMENT ONE YEAR OR LESS: Defendant shall serve a term of total confinement in the _____ County Jail as follows commencing _____

_____ day(s) on Count No. _____
 _____ day(s) on Count No. _____
 _____ day(s) on Count No. _____

The terms in Counts No. _____ are (concurrent) (consecutive).
 The sentence herein shall run (concurrently) (consecutively) with the sentence in _____
 Total number of days of confinement ordered is _____
 Credit is given for (time) (_____ days) served.

(10) ALTERNATIVE CONVERSION PURSUANT TO RCW 9.94A.380:
 _____ days of the total confinement ordered above shall be converted to partial confinement. _____ days of the total confinement ordered above shall be converted to _____ hours of community service under the supervision of the Department of Corrections to be completed as follows:
 Alternative conversion was not used because: _____

(11) COMMUNITY SUPERVISION: Defendant shall serve _____ months of community supervision. Community supervision shall commence (_____ year) (upon release from confinement). Defendant shall report to the Department of Corrections at _____ within 72 hours of the commencement of community supervision and shall comply with all rules, regulations and requirements of the Department of Corrections and any other conditions of community supervision stated in this Judgment and Sentence.
 The defendant's monthly probationer assessment to the Department of Corrections is as follows (RCW 9.94A.270):
 Full payment
 Total exemption
 Partial exemption as follows: _____

(12) OTHER CONDITIONS:
 Additional conditions are attached in Appendix F.
 Violations of the conditions or requirements of this sentence are punishable for a period not to exceed sixty (60) days of confinement for each violation. (RCW 9.94A.260(2)).

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:
 Appendix A. Additional Current Offenses per paragraph 2.1
 Appendix B. Additional Criminal History per paragraph 2.2
 Appendix C. Additional Current Offense(s) Sentencing Data per paragraph 2.3
 Appendix D. Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
 Appendix E. Schedule of Restitution per paragraph 4.1(c)
 Appendix F. Additional Conditions per paragraph 4.3

Date: _____ Judge _____
 Presented by: _____ Approved as to form: _____
 Deputy Prosecuting Attorney Lawyer for Defendant

JUDGMENT AND SENTENCE (FELONY)
 CONFINEMENT ONE YEAR OR LESS
 (RCW 9.94A.110, 120)

JS
 Page 3 of 4

13. Confinement -- If the first time waiver of sentence is used, the court may impose up to 90 days total or partial confinement. Note the court is not required to order confinement, but if confinement is ordered it must be served. THE COURT MAY NOT SUSPEND OR CONDITION THE CONFINEMENT.

14. Community Supervision -- With the first time offender option the court may impose up to two years community supervision.

15. Community Service -- There is no limit on the amount of community service the court may impose under the first time offender option; the statute simply states the sentence may require the offender to "accomplish some community service work."

16. Other Conditions -- The court should list other conditions it wishes to impose upon the offender. Conditions that may be imposed are set forth in RCW 9.94A.120(5).

WV CR4600 (5/94) Q1 4-12

4.3 FIRST TIME OFFENDER WAIVER OF PRESUMPTIVE SENTENCE: The court waives imposition of a sentence within the presumptive sentence range and imposes the following sentence pursuant to RCW 9.94A.120(5):

(a) CONFINEMENT: Defendant shall serve a term of confinement in the _____ County Jail as follows:

_____ day(s) total confinement commencing _____

_____ day(s) partial confinement commencing _____

Credit is given for (time) _____ day(s) served.

(b) COMMUNITY SUPERVISION: Defendant shall serve _____ month(s) of community supervision. Community supervision shall commence _____ (upon release from confinement). Defendant shall report to the Department of Corrections at _____ within 72 hours of the commencement of community supervision and shall comply with all rules, regulations and requirements of the Department of Corrections and any other conditions of community supervision stated in this Judgment and Sentence.

The defendant's monthly probationer assessment to the Department of Corrections is as follows (RCW 9.94A.270):

Full payment

Total exemption

Partial exemption as follows:

(c) COMMUNITY SERVICE: Defendant shall serve _____ hour(s) of community service under the supervision of the Department of Corrections to be completed as follows:

(d) OTHER CONDITIONS:

Additional conditions are attached in Appendix F.

Violations of the conditions or requirements of this sentence are punishable for a period not to exceed sixty (60) days of confinement for each violation (RCW 9.94A.200(2)).

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

Appendix A, Additional Current Offenses per paragraph 2.1

Appendix B, Additional Criminal History per paragraph 2.2

Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3

Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4

Appendix E, Schedule of Restitution per paragraph 4.1(c)

Appendix F, Additional Conditions per paragraph 4.3

Date: _____

Presented by: _____ Approved as to form: _____

Deputy Prosecuting Attorney

Lawyer for Defendant

JUDGMENT AND SENTENCE (PELONY)
FIRST TIME OFFENDER WAIVER OF PRESUMPTIVE SENTENCE
(RCW 9.94A.110, 120(5))

JS
Page 3 of 4

17. Special Sexual Offender Sentencing Alternative -- RCW 9.94A.120(7)(a) requires the imposition of a determinate sentence within the range, the suspension of that sentence and the imposition of the alternative.
18. Confinement -- Under the sexual offender sentencing alternative, the court may impose up to six months of total or partial confinement.
19. Community Supervision -- With the sexual offender sentencing alternative the court may impose up to two years community supervision.
20. Community Service -- There is no limit on the amount of community service the court may impose under the sexual offender sentencing alternative. The statute simply states the sentence may require the offender to "accomplish some community service work."
21. Other Conditions -- The court should list other conditions it wishes to impose upon the offender. Conditions that may be imposed are set forth in RCW 9.94A.120(7)(a).

WV CR-61000 (1/90) OR A-22

4.3 SPECIAL SEXUAL OFFENDER SENTENCING ALTERNATIVE: The defendant is sentenced as follows pursuant to RCW 9.94A.120(7)(a):

17 _____ month(s) on Count No. _____
 _____ month(s) on Count No. _____
 _____ month(s) on Count No. _____

The execution of this sentence is SUSPENDED and the following conditions are imposed:

(a) CONFINEMENT: Defendant shall serve a term of confinement in the _____ County Jail as follows:

18 _____ (day(s)) (month(s)) total confinement commencing _____ (date)
 _____ (day(s)) (month(s)) partial confinement commencing _____ (date)
 The sentence herein shall run (concurrently) (consecutively) with the sentence in _____
 Credit is given for (time) _____ (day(s)) served.

(b) COMMUNITY SUPERVISION: Defendant shall serve _____ month(s) of community supervision. Community supervision shall commence _____ (date) (upon release from confinement). Defendant shall report to the Department of Corrections at _____ (address) within 72 hours of the commencement of community supervision and shall comply with all rules, regulations and requirements of the Department of Corrections and any other conditions of community supervision stated in this Judgment and Sentence. The defendant's monthly probationer assessment to the Department of Corrections is as follows (RCW 9.94A.270):

19 Full payment
 Total exemption
 Partial exemption as follows:

(c) TREATMENT: Defendant shall undergo (inpatient) (outpatient) sexual offender treatment for _____ (day(s)) (month(s)) as follows:

(d) COMMUNITY SERVICE: Defendant shall serve _____ hour(s) of community service under the supervision of the Department of Corrections to be completed as follows:

20

(e) OTHER CONDITIONS:

21 Additional conditions are attached in Appendix F.

Violations of the conditions or requirements of this sentence are punishable by up to sixty (60) days of confinement for each violation (RCW 9.94A.200(2)).

The following Appendices are attached to the Judgment and Sentence and are incorporated by reference:

Appendix A. Additional Current Offenses per paragraph 2.1
 Appendix B. Additional Criminal History per paragraph 2.2
 Appendix C. Additional Current Offense(s) Sentencing Data per paragraph 2.3
 Appendix D. Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
 Appendix E. Schedule of Restitution per paragraph 4.1(c)
 Appendix F. Additional Conditions per paragraph 4.3

Date: _____ Judge _____

Processed by: _____ Approved as to form: _____

Deputy Prosecuting Attorney _____ Lawyer for Defendant _____

JUDGMENT AND SENTENCE (FELONY)
 SPECIAL SEXUAL OFFENDER SENTENCING ALTERNATIVE
 (RCW 9.94A.110, 120(7)(a))

22
 Page 3 of 4

22. Sexual Offender Evaluation/Report -- This alternative page orders the offender to be evaluated at a State Hospital. Disposition of where the offender shall serve the term of confinement should be made by using form WPF CR-84.1300 (5/86) (Order On Sexual Offender Confinement -- Sexual Offender Sentence Over One Year).

WPF CR-84.1300 (5/86) CR 4-2P

4.3 SEXUAL OFFENDER SENTENCE OVER ONE YEAR: The court, having found that the defendant is convicted of a felony sexual offense which will require a term of confinement of more than one year but less than six years, imposes the following sentence:

(a) CONFINEMENT: A term of total confinement in the custody of the Department of Corrections as follows commencing _____ (Date):

_____ months on Count No. _____
 _____ months on Count No. _____
 _____ months on Count No. _____

The terms in Counts No. _____ are (concurrent) (consecutive).
 The sentence herein shall run (concurrently) (consecutively) with the sentence in _____.
 Total number of months of confinement ordered is _____.
 Credit is given for (time) _____ (days) served.

(b) SEXUAL OFFENDER EVALUATION/REPORT: The defendant is committed for up to thirty (30) days to the custody of the Department of Social and Health Services for evaluation at a State Hospital, which shall report to the court on the defendant's amenability to treatment in the sexual offender treatment program. If the evaluation cannot begin within thirty (30) days of this order, the defendant shall be transferred to the custody of the Department of Corrections for confinement pending the opportunity for evaluation. Following evaluation, the defendant shall be transferred to the custody of the _____ County Jail pending further review and hearing on where confinement shall be served.

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

Appendix A. Additional Current Offense per paragraph 2.1
 Appendix B. Additional Criminal History per paragraph 2.2
 Appendix C. Additional Current Offense(s) Sentencing Data per paragraph 2.3
 Appendix D. Findings of Fact and Conclusions of Law for Exceptional Sentences per paragraph 4.1
 Appendix E. Schedule of Restitution per paragraph 4.2(c)

Date: _____ Judge _____

Presented by _____ Approved as to form _____

 Deputy Prosecuting Attorney Lawyer for Defendant

JUDGMENT AND SENTENCE (FELONY)
 SPECIAL OFFENDER SENTENCE OVER ONE YEAR
 (RCW 9A.116, 120.716)

JS
 Page 3 of 4

23. Offender Identification -- All the demographic information requested in the offender identification of the fingerprint page must be completed so that the offender may be correctly identified.

The following is a breakdown of the abbreviations on the page.

S.I.D. No. -- S.I.D. No. is the state identification number received from the State Patrol.

O.R.I. -- O.R.I. is the originating agency identifier. This is the identifier number of the arresting or contributing law enforcement agency.

O.C.A. -- O.C.A. is the originating agency's case number for the arrest which led to the offender's conviction.

O.I.N. -- O.I.N. is the originating identification number for each charge filed against the offender.

D.O.A. -- D.O.A. is the Date of Arrest.

FINGERPRINTS	
<p>Right Hand Fingerprints of: _____</p> <p>Date: _____</p> <p>CERTIFICATE</p> <p>I, _____, Clerk of this Court, certify that the above is a true copy of the Judgment and Sentence as they appear on record in my office.</p> <p>Date: _____</p> <p style="text-align: center;">Clerk</p> <p>By: _____ Deputy Clerk</p>	<p>Arrested by: _____</p> <p>By: _____</p> <p>OFFENDER IDENTIFICATION (23)</p> <p>S.I.D. No. _____</p> <p>Date of Birth _____</p> <p>Sex _____</p> <p>Race _____</p> <p>ORI _____</p> <p>OCA _____</p> <p>OIN _____</p> <p>DOA _____</p>
<p>JUDGMENT AND SENTENCE (FELONY) — FINGERPRINTS (CR 7.1, RCW 9A.110, 120.71, 10A.110)</p>	
<p>JS Page 4 of 4</p>	

SUPERIOR COURT OF WASHINGTON COUNTY OF _____

STATE OF WASHINGTON,

vs.

Plaintiff,

Defendant.

NO.

JUDGMENT AND SENTENCE
(FELONY)

SID No.: _____

I. HEARING

1.1 A sentencing hearing in this case was held: _____ (Date)

1.2 Present were:

Defendant:

Defendant's Lawyer:

(Deputy) Prosecuting Attorney:

Other:

1.3 The state has moved for dismissal of Count(s) _____

1.4 Defendant was asked if there was any legal cause why judgment should not be pronounced, and none was shown.

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report and case record to date, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on _____ by (plea) (jury-verdict) (bench trial) of:

Count No.: _____ Crime: _____

RCW _____ Crime Code _____

Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____

RCW _____ Crime Code _____

Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____

RCW _____ Crime Code _____

Date of Crime _____ Incident No. _____

- Additional current offenses are attached in Appendix A.
- With a special verdict/finding for use of deadly weapon on Count(s):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400(1)):

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

- Additional criminal history is attached in Appendix B.
- Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(11)):

2.3 SENTENCING DATA:

	<u>Offender Score</u>	<u>Seriousness Level</u>	<u>Range</u>	<u>Maximum Term</u>
Count No. _____:	_____;	_____;	_____;	_____;
Count No. _____:	_____;	_____;	_____;	_____;
Count No. _____:	_____;	_____;	_____;	_____;

Additional current offense sentencing data is attached in Appendix C.

2.4 EXCEPTIONAL SENTENCE:

Substantial and compelling reasons exist which justify a sentence (above) (below) the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix D.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the crime(s) of: _____

IV. ORDER

IT IS ORDERED that defendant serve the determinate sentence and abide by the conditions set forth below.

4.1 Defendant shall pay to the Clerk of this Court:

- (a) \$ _____, Court costs;
- (b) \$ _____, Victim assessment;
- (c) \$ _____, Total amount restitution (with credit for amounts paid by co-defendant(s)) to:

<u>Name</u>	<u>Address</u>	<u>Amount</u>
_____	_____	\$ _____
_____	_____	\$ _____

The court has not ordered restitution. (See clerk's minutes.)

Schedule of Restitution is attached as Appendix E.

- (d) \$ _____, Recoupment for attorney's fees to _____
- (e) \$ _____, Fine;
- (f) \$ _____, Drug enforcement fund;
- (g) \$ _____, Other costs for:

(h) \$ _____, TOTAL monetary obligations.

(i) Payments shall be made to _____ County Superior Court according to the rules of the clerk and the following terms:

- Not less than \$ _____ per month;
- On a schedule established by the defendant's community corrections officer.

The clerk of the court shall credit monetary payments to the above obligations in the above-listed order and shall forward restitution payments to the persons listed in paragraph 4.1(c).

(j) The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections pursuant to RCW 9.94A.120(11) for a period up to ten years to assure payment of the above restitution.

4.2 The court DISMISSES Count(s) _____

4.3 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows commencing _____ (Date) :

_____ months for Count No. _____
_____ months for Count No. _____
_____ months for Count No. _____

- The terms in Counts No. _____ are (concurrent) (consecutive).
- The sentence herein shall run (concurrently) (consecutively) with the sentence in _____ (Count(s) or cause number(s))
- Total number of months of confinement ordered is _____ (months)
- Credit is given for (time) (_____ days) served.

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference :

- Appendix A, Additional Current Offenses per paragraph 2.1
- Appendix B, Additional Criminal History per paragraph 2.2
- Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3
- Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
- Appendix E, Schedule of Restitution per paragraph 4.1(c)

Date: _____ Judge

Presented by:

Approved as to form:

Deputy Prosecuting Attorney

Lawyer for Defendant

4.3 CONFINEMENT ONE YEAR OR LESS: Defendant shall serve a term of total confinement in the _____ County Jail as follows commencing _____ (Date):

_____ day(s) on Count No. _____
_____ day(s) on Count No. _____
_____ day(s) on Count No. _____

- The terms in Counts No. _____ are (concurrent) (consecutive).
- The sentence herein shall run (concurrently) (consecutively) with the sentence in _____ (Count(s) or cause number(s)).
- Total number of days of confinement ordered is _____ (days).
- Credit is given for (time) (_____ days) served.

(a) ALTERNATIVE CONVERSION PURSUANT TO RCW 9.94A.380:

- _____ days of the total confinement ordered above shall be converted to partial confinement.
- _____ days of the total confinement ordered above shall be converted to _____ hours of community service under the supervision of the Department of Corrections to be completed as follows:

Alternative conversion was not used because:

(b) COMMUNITY SUPERVISION: Defendant shall serve _____ months of community supervision. Community supervision shall commence (_____) (Date) (upon release from confinement). Defendant shall report to the Department of Corrections at _____ (Address) within 72 hours

of the commencement of community supervision and shall comply with all rules, regulations and requirements of the Department of Corrections and any other conditions of community supervision stated in this Judgment and Sentence.

- The defendant's monthly probationer assessment to the Department of Corrections is as follows (RCW 9.94A.270):
- Full payment
 - Total exemption
 - Partial exemption as follows:

(c) OTHER CONDITIONS:

Additional conditions are attached in Appendix F.

Violations of the conditions or requirements of this sentence are punishable for a period not to exceed sixty (60) days of confinement for each violation. (RCW 9.94A.200(2)).

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

- Appendix A, Additional Current Offenses per paragraph 2.1
- Appendix B, Additional Criminal History per paragraph 2.2
- Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3
- Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
- Appendix E, Schedule of Restitution per paragraph 4.1(c)
- Appendix F, Additional Conditions per paragraph 4.3

Date: _____ Judge _____

Presented by: _____ Approved as to form: _____
Deputy Prosecuting Attorney Lawyer for Defendant

4.3 FIRST TIME OFFENDER WAIVER OF PRESUMPTIVE SENTENCE: The court waives imposition of a sentence within the presumptive sentence range and imposes the following sentence pursuant to RCW 9.94A.120(5):

(a) CONFINEMENT: Defendant shall serve a term of confinement in the _____ County Jail as follows:

- _____ day(s) total confinement commencing _____ (Date)
- _____ day(s) partial confinement commencing _____ (Date)
- Credit is given for (time) (_____ days) served.

(b) COMMUNITY SUPERVISION: Defendant shall serve _____ months of community supervision. Community supervision shall commence (_____) (Date) (upon release from confinement). Defendant shall report to the Department of Corrections at _____ (Address) within 72 hours

of the commencement of community supervision and shall comply with all rules, regulations and requirements of the Department of Corrections and any other conditions of community supervision stated in this Judgment and Sentence.

The defendant's monthly probationer assessment to the Department of Corrections is as follows (RCW 9.94A.270):

- Full payment
- Total exemption
- Partial exemption as follows:

(c) COMMUNITY SERVICE: Defendant shall serve _____ hours of community service under the supervision of the Department of Corrections to be completed as follows:

(d) OTHER CONDITIONS:

Additional conditions are attached in Appendix F.

Violations of the conditions or requirements of this sentence are punishable for a period not to exceed sixty (60) days of confinement for each violation (RCW 9.94A.200(2)).

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

- Appendix A, Additional Current Offenses per paragraph 2.1
- Appendix B, Additional Criminal History per paragraph 2.2
- Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3
- Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
- Appendix E, Schedule of Restitution per paragraph 4.1(c)
- Appendix F, Additional Conditions per paragraph 4.3

Date: _____

Judge

Presented by:

Approved as to form:

Deputy Prosecuting Attorney

Lawyer for Defendant

4.3 SPECIAL SEXUAL OFFENDER SENTENCING ALTERNATIVE: The defendant is sentenced as follows pursuant to RCW 9.94A.120(7)(a):

_____ month(s) on Count No. _____ .
_____ month(s) on Count No. _____ .
_____ month(s) on Count No. _____ .

The execution of this sentence is SUSPENDED and the following conditions are imposed:

(a) CONFINEMENT: Defendant shall serve a term of confinement in the _____ County Jail as follows:

- _____ (day(s)) (month(s)) total confinement commencing _____ (Date)
- _____ (day(s)) (month(s)) partial confinement commencing _____ (Date)
- The sentence herein shall run (concurrently) (consecutively) with the sentence in _____ (Count(s) or cause numbers)
- Credit is given for (time) (_____ days) served.

(b) COMMUNITY SUPERVISION: Defendant shall serve _____ months of community supervision. Community supervision shall commence (_____) (Date) (upon release from confinement). Defendant shall report to the Department of Corrections at _____ (Address) within 72 hours

of the commencement of community supervision and shall comply with all rules, regulations and requirements of the Department of Corrections and any other conditions of community supervision stated in this Judgment and Sentence.

The defendant's monthly probationer assessment to the Department of Corrections is as follows (RCW 9.94A.270):

- Full payment
- Total exemption
- Partial exemption as follows:

(c) TREATMENT: Defendant shall undergo (inpatient) (outpatient) sexual offender treatment for _____ (day(s)) (month(s)) as follows:

(d) COMMUNITY SERVICE: Defendant shall serve _____ hours of community service under the supervision of the Department of Corrections to be completed as follows:

(e) OTHER CONDITIONS:

Additional conditions are attached in Appendix F.

Violations of the conditions or requirements of this sentence are punishable by up to sixty (60) days of confinement for each violation (RCW 9.94A.200(2)).

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

- Appendix A, Additional Current Offenses per paragraph 2.1
- Appendix B, Additional Criminal History per paragraph 2.2
- Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3
- Appendix D, Findings of Fact and Conclusions of Law for an Exceptional Sentence per paragraph 2.4
- Appendix E, Schedule of Restitution per paragraph 4.1(c)
- Appendix F, Additional Conditions per paragraph 4.3

Date: _____

Judge

Presented by:

Approved as to form:

Deputy Prosecuting Attorney

Lawyer for Defendant

4.3 SEXUAL OFFENDER SENTENCE OVER ONE YEAR: The court, having found that the defendant is convicted of a felony sexual offense which will require a term of confinement of more than one year but less than six years, imposes the following sentence:

(a) CONFINEMENT: A term of total confinement in the custody of the Department of Corrections as follows commencing

_____ (Date) ;
_____ months on Count No. _____ .
_____ months on Count No. _____ .
_____ months on Count No. _____ .

- The terms in Counts No. _____ are (concurrent) (consecutive).
- The sentence herein shall run (concurrently) (consecutively) with the sentence in _____ (Count(s) or cause number(s)).
- Total number of months of confinement ordered is _____ (Months).
- Credit is given for (time) (_____ days) served.

(b) SEXUAL OFFENDER EVALUATION/REPORT: The defendant is committed for up to thirty (30) days to the custody of the Department of Social and Health Services for evaluation at a State Hospital, which shall report to the court on the defendant's amenability to treatment in the sexual offender treatment program. If the evaluation cannot begin within thirty (30) days of this order, the defendant shall be transferred to the custody of the Department of Corrections for confinement pending the opportunity for evaluation. Following evaluation, the defendant shall be transferred to the custody of the _____ County Jail pending further review and hearing on where confinement shall be served.

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

- Appendix A, Additional Current Offenses per paragraph 2.1
- Appendix B, Additional Criminal History per paragraph 2.2
- Appendix C, Additional Current Offense(s) Sentencing Data per paragraph 2.3
- Appendix D, Findings of Fact and Conclusions of Law for Exceptional Sentences per paragraph 4.1
- Appendix E, Schedule of Restitution per paragraph 4.2(c)

Date: _____ Judge

Presented by: _____ Approved as to form: _____
Deputy Prosecuting Attorney Lawyer for Defendant

FINGERPRINTS

Right Hand
Fingerprints of:

Dated: _____

CERTIFICATE

I, _____, Clerk
of this Court, certify that the above is a true copy of the Judgment
and Sentence in this action on record in my office.

Dated: _____

Clerk

By: _____

Deputy Clerk

Attested by:

By: _____

OFFENDER IDENTIFICATION

S.I.D. No. _____

Date of Birth _____

Sex _____

Race _____

ORI _____

OCA _____

OIN _____

DOA _____



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

vs.

Plaintiff,

Defendant.

NO.
JUDGMENT AND SENTENCE
(FELONY) - APPENDIX A
ADDITIONAL CURRENT OFFENSES

The defendant is also convicted of these additional current offenses:

2.1 Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

Date: _____ Judge _____



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

vs. Plaintiff,
Defendant.

NO.
JUDGMENT AND SENTENCE
(FELONY) - APPENDIX B
ADDITIONAL CRIMINAL HISTORY

2.2 The defendant has the following additional criminal history used in calculating the offender score (RCW 9.94A.360):

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

[] The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.360(11)):

Date: _____ Judge _____



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

Plaintiff,

vs.

Defendant.

NO.

JUDGMENT AND SENTENCE (FELONY) -
APPENDIX C, CURRENT OFFENSE(S)
SENTENCING INFORMATION

2.3 SENTENCING INFORMATION: Additional current offense(s) sentencing information is as follows:

	<u>Offender Score</u>	<u>Seriousness Level</u>	<u>Range</u>	<u>Maximum Term</u>
Count No. _____:	_____;	_____;	_____;	_____.
Count No. _____:	_____;	_____;	_____;	_____.
Count No. _____:	_____;	_____;	_____;	_____.
Count No. _____:	_____;	_____;	_____;	_____.
Count No. _____:	_____;	_____;	_____;	_____.

The following real and material facts were considered by the court pursuant to RCW 9.94A.370:

Date: _____

Judge



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

vs.

Plaintiff,

Defendant.

NO.

**JUDGMENT AND SENTENCE (FELONY) -
APPENDIX D, FINDINGS OF FACT AND CONCLU-
SIONS OF LAW FOR EXCEPTIONAL SENTENCES**

2.4 An exceptional sentence (below) (above) the standard range should be imposed based upon the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

II. CONCLUSIONS OF LAW

Date: _____

Judge

Deputy Prosecuting Attorney

Lawyer for the Defendant



STATE OF WASHINGTON,

vs.

Plaintiff,

Defendant.

NO.

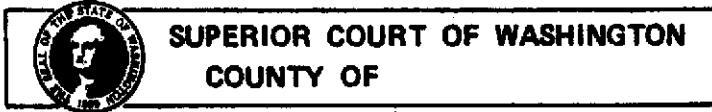
JUDGMENT AND SENTENCE
(FELONY) - APPENDIX E
SCHEDULE OF RESTITUTION

4.1 (c) The defendant is to make restitution to the following person(s) in the following amounts and sequences, payable in installments approved by (the Community Corrections Officer) (and) (or) (the court):

<u>Name</u>	<u>Address</u>	<u>Amount</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Date: _____

Judge _____



STATE OF WASHINGTON,

vs.

Plaintiff,

Defendant.

NO.

JUDGMENT AND SENTENCE
(FELONY) - APPENDIX F

ADDITIONAL CONDITIONS OF SENTENCE

4.3 Continued: Additional conditions of sentence are:

Date: _____

Judge



STATE OF WASHINGTON,

Plaintiff,

NO.

vs.

Defendant.

WARRANT OF COMMITMENT

THE STATE OF WASHINGTON

TO: The Sheriff of _____ County.

The defendant: _____ has been convicted in the Superior Court of the State of Washington of the crime(s) of:

and the court has ordered that the defendant be punished by serving the determined sentence of:

_____ (day(s)) (month(s)) on Count No. _____, _____ (day(s)) (month(s)) on Count No. _____ and _____ (day(s)) (month(s)) on Count No. _____.

_____ (day(s)) (month(s)) of partial confinement in the County Jail.

_____ (day(s)) (month(s)) of total confinement in the County Jail.

Defendant shall receive credit for time served prior to this date.

YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

[] The defendant is committed for up to thirty (30) days evaluation at Western State Hospital or Eastern State Hospital to determine amenability to sexual offender treatment

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections pending delivery to the proper officers of the Secretary of the Department of Social and Health Services.

YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as ordered in the Judgment and Sentence.

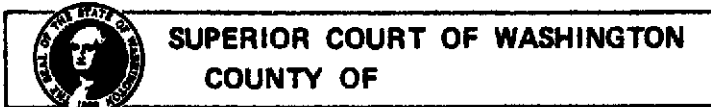
By direction of the Honorable

Date: _____ Judge

Clerk

By: _____
Deputy Clerk

cc: Prosecuting Attorney
Defendant's Lawyer
Defendant
Jail
Institutions (3)



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

Plaintiff,

vs.

Defendant.

NO.

RECORD OF ADVICE OF
RIGHT TO APPEAL

I. ADVICE

Judgment and sentence having been entered, you are now advised that:

1.1 You have the right to appeal:

a determination of guilt after a trial.

a sentencing determination outside the standard range.

1.2 Unless a notice of appeal is filed with the clerk of the court within thirty (30) days from the entry of judgment or the order appealed from, you have irrevocably waived your right of appeal.

1.3 If you have no lawyer to file a notice of appeal for you, the clerk of the court will, if requested by you, file a notice of appeal on your behalf.

1.4 If you cannot afford the cost of an appeal, you have the right to have a lawyer appointed to represent you on appeal and to have such parts of the trial record as are necessary for review of errors assigned transcribed for you, both at public expense.

Date: _____

Judge

II. RECEIPT OF ADVICE

2.1 The foregoing advice of my right to appeal was read to me in open court; and

2.2 I understand these rights; and

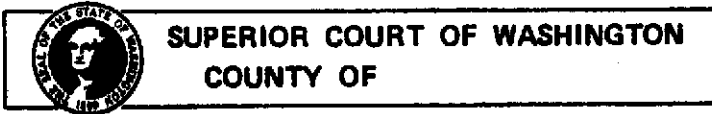
2.3 I acknowledge receipt of a true copy of the above rights as read to me.

Date: _____

Defendant

cc: Defendant
Defendant's Lawyer
Prosecuting Attorney

Defendant's Lawyer



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

Plaintiff,

vs.

Defendant.

NO.

NOTICE OF APPEAL

The State of Washington

The defendant: _____

seeks review by the (Court of Appeals, Division _____) (Supreme Court)
of the Judgment and Sentence entered on _____
for the following reason(s): (Date)

determination of guilt after a trial.

sentencing determination outside the standard range.

Date: _____

Appellant's Signature

Address: _____

(Street)

(City) (State) (Zip)

Appellant's Lawyer

Address: _____

(Street)

(City) (State) (Zip)

Respondent's Lawyer

Address: _____

(Street)

(City) (State) (Zip)



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

Plaintiff,

vs.

Defendant.

NO.

**PETITION FOR ORDER MODIFYING
SENTENCE/REVOKING SENTENCE/
CONFINING DEFENDANT**

1. The undersigned states that on _____ the defendant,
(Date)
_____, (pled guilty to) (was convicted of)
the crime(s) of:

2. The defendant was sentenced on _____ to various require-
ments or conditions under: (Date)

- An order of confinement over one year.
- An order of confinement less than one year.
- The first-time offender waiver.
- The sexual offender sentencing alternative suspending sentence.
- The sexual offender option allowing confinement to be served in a treatment program at a state hospital.

3. The defendant has violated or failed to comply with the requirements or conditions of sentence as set forth in:

- The attached affidavit(s).
- The attached Report of Violation dated: _____.

4. The undersigned petitions the court for an order:

- Modifying sentence.
- Revoking the sexual offender alternative suspending sentence and ordering execution of sentence.
- Confining the defendant pursuant to RCW 9.94A.200(2)(b).
- Requiring the defendant to show cause why he or she should not be punished for noncompliance with sentence.

Date: _____

Prosecuting Attorney

By: _____

Deputy Prosecuting Attorney



**SUPERIOR COURT OF WASHINGTON
COUNTY OF**

STATE OF WASHINGTON,

Plaintiff,

vs.

Defendant.

NO.
ORDER MODIFYING SENTENCE/
REVOKING SENTENCE/ORDER OF
CONFINEMENT/WARRANT OF COMMITMENT

I. HEARING

1.1 The court received a petition for an order (modifying sentence) (revoking sentence alternative) (imposing confinement) for the defendant,

_____.

1.2 This matter was heard on _____
(Date)

1.3 Present were:

- Defendant:
- Defendant's Lawyer:
- (Deputy) Prosecuting Attorney:
- Other:

1.4 The court considered:

A violation report dated: _____.

Affidavit(s) from: _____

Other:

II. FINDINGS

The court FINDS that:

2.1 The defendant has (violated) (failed to comply with) the requirements or conditions of sentence as follows:

2.2 The violation of the requirements or conditions of sentence by the defendant was:

- Willful.
- Not Willful.

III. ORDER

It is ORDERED that:

The sentence entered on _____ is still in effect but
(Date)
modified in the following manner:

The special sexual offender alternative sentence is VACATED. The order suspending the execution of the sentence issued on _____ is REVOKED AND SENTENCE EXECUTED.
(Date)

Credit is given for (time) (_____ days) served.

Confinement is IMPOSED. The defendant shall serve _____ days of (total) (partial) confinement in the _____ County Jail.

The remaining term of _____ days of partial confinement is converted to total confinement.

Credit is given for (time) (_____ days) served.

Date: _____
Judge

IV. WARRANT OF COMMITMENT

THE STATE OF WASHINGTON

TO: The Sheriff of _____ County

The defendant: _____
has been found by the court to have violated the requirements or conditions
of the (suspended) sentence entered on _____. The court has
ordered that: _____ (Date)

-] The suspension be revoked and the sentence executed; and that the defendant be punished by serving the determined sentence of _____ months on Count No. _____, _____ months on Count No. _____, and _____ months on Count No. _____, under the supervision of the Department of Corrections.
-] The defendant be punished by serving _____ days of confinement in the _____ County Jail.

Defendant shall receive _____ day(s) credit for time served prior to this date.

-] YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the (Judgment and Sentence) (Order of Confinement).
-] YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

By direction of the Honorable

Date: _____
_____ Judge

_____ Clerk

By: _____
_____ Deputy Clerk

SECTION V: APPENDICES

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APPENDIX A:
APPELLATE COURT RULINGS ON THE
SENTENCING REFORM ACT

APPENDIX A
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Under the Sentencing Reform Act, the court may impose a sentence outside the standard range if it finds, considering the purposes of the act, that substantial and compelling reasons justify an exceptional sentence. Such exceptional sentences can be appealed by the prosecutor or defendant.

Since the law went into effect in 1984, several appellate court decisions on SRA cases have been issued. This section summarizes the published decisions.

Individual case summaries are grouped into major categories of the law and organized with the most recent case last. Decisions announced as of August 1987 are summarized. As this document went to the printer in October 1987, a major decision on the definition of "same criminal conduct" was released by the Supreme Court (State v. Dunaway, 109 Wn. 2d 207 (1987)). Because of its import to SRA law, this case is included.

An index by case title is included, as well as a subject matter index for exceptional sentences.

Kyle Aiken and Roxanne Park prepared this document, with assistance from Deborah Phillips, Senior Deputy Prosecuting Attorney in King County.

I. CONSECUTIVE/CONCURRENT POLICY (RCW 9.94A.400)

NOTE: Also see "Same Criminal Conduct" section, page 39.

State v. Andrews
43 Wn. App. 49, 715 P.2d 526 (1986) Division Three

The defendant appealed a 34-month exceptional sentence within the standard range for Unlawful Delivery of a Controlled Substance. The sentence was affirmed. The defendant contended that ordering his current sentence to run consecutively to his sentence on previous SRA drug convictions was a denial of equal protection and resulted in a clearly excessive sentence. The Court of Appeals declined to find constitutional disparity in the present treatment of defendants with pre-SRA felonies (whose unexpired sentences must be served before the new SRA sentence) and those with SRA prior felonies without unexpired terms to serve. The appellate court stated the sentence imposed was a standard range sentence, and arguments about its excessiveness "should be addressed to the legislature."

The state argued the defendant could not appeal the sentence because it fell within the standard range. The appellate court ruled an accelerated sentence appeal was proper because if the sentencing court had improperly ordered consecutive sentences, the sentence would be outside the range and therefore an appropriate sentence to appeal.

State v. Huntley
45 Wn. App. 658, 726 P.2d 1254 (1986) Division Two

The defendant pleaded guilty to several charges but failed to appear for sentencing. She was then charged and plead guilty to Bail Jumping. The Bail Jumping sentence was run consecutively to the sentences for the prior felonies.

Under former RCW 9.94A.400, if sentences are imposed on multiple felony offenses, other than serious violent ones, committed while the offender was not then subject to a felony conviction and an exceptional sentence is not warranted, concurrent sentences are required when the convictions are obtained in a single or consolidated proceeding. If the convictions are obtained in separate proceedings, as here, the later imposed sentence may be either concurrent or consecutive at the sentencing judge's discretion.

State v. Stark
48 Wn. App. 295, _____ P.2d _____ (1987) Division One

The defendant was convicted of First Degree Statutory Rape and Indecent Liberties, such sentences to be served consecutively with the previously imposed sentences for two Bail Jumping convictions. The defendant argued that former RCW 9.94A.400(1)(a) applied and the sex offense sentences should be run concurrently with the Bail Jumping sentences.

The defendant's sex offense convictions were obtained by jury verdict in a single proceeding on April 4, 1985. The two Bail Jumping convictions were obtained by a guilty plea in an entirely separate proceeding on July 20. Since the proceedings were separate, former RCW 9.94A.400(3) applies and consecutive sentences for the sex offense and Bail Jumping convictions were proper.

State v. Henderson

48 Wn. App. 543, 740 P.2d 329 (1987) Division One

The defendant appealed his conviction for First Degree Statutory Rape, Indecent Liberties, and Bail Jumping, arguing the sentence for Bail Jumping should have been served concurrently.

The sexual abuse crimes were committed prior to the effective date of the SRA. It is unclear whether RCW 9.94A.400(1)(a), requiring concurrent sentences, or subsection (3) requiring consecutive sentences, should apply since the trial court imposed the sentences at the same time. Given this ambiguity, the rule of lenity is adopted and the Bail Jumping sentence is ordered to be served concurrently.

II. DEADLY WEAPON ENHANCEMENT (RCW 9.94A.310)

State v. Pentland

43 Wn. App. 808, _____ P.2d _____ (1986) Division Two

The state appealed the defendant's sentence for First Degree Rape, contending the sentence was below the minimum required given the deadly weapon enhancement. The minimum presumptive sentence was 51 months, and the trial court entered a deadly weapon finding (24-month enhancement). The court imposed a 51-month sentence and did not declare it an exceptional sentence. The defendant cross-appealed, contending the juvenile court improperly declined jurisdiction, and the trial court erred in refusing to suppress his confession. The appellate court affirmed the conviction, reversed the sentence and remanded the case for resentencing.

The deadly weapon enhancement does not impose a double jeopardy for the same offense. The rule of lenity only applies if the statute is ambiguous, and the legislature's intent in RCW 9.94A.310 is expressed with "unusual clarity"; thus, this rule does not apply. The deadly weapon enhancement of 24 months was required.

State v. Gunther

45 Wn. App. 755, 727 P.2d 258 (1986) Division One

The defendant was convicted of cocaine delivery. The court, relying in part on the defendant's possession of a firearm during one of the sales, imposed an exceptional sentence. The defendant appealed, arguing the prosecutor had not proceeded under the deadly weapon enhancement, so the court could not aggravate the sentence because of the firearm. The appellate court agreed.

The prosecutor must proceed under RCW 9.94A.125 for those crimes enumerated in RCW 9.94A.310. (RCW 9.94A.125 allows a 12-month increase in the presumptive range for delivery or possession with intent to deliver a controlled substance if the offender or an accomplice was armed with a deadly weapon at the time of the offense.) In such cases, the finding is not an aggravating factor but acts to increase the presumptive sentencing range. See RCW 9.94A.310. The firearm enhancement must be accomplished through charge and proof beyond a reasonable doubt.

State v. Sullivan

47 Wn. App. 81, 733 P.2d 598 (1987) Division Two

The defendant appealed the deadly weapon enhancement he received after pleading guilty to First Degree Robbery. He argued that since the firearm was unloaded, a penalty enhancement was not proper.

The SRA does not alter the previous case law on deadly weapon enhancement. An unloaded firearm may be a deadly weapon for purposes of the penalty enhancement statute.

State v. Caldwell

47 Wn. App. 317, 734 P.2d 542 (1987) Division Two

The defendant was convicted of First Degree Burglary with a deadly weapon. He argued the deadly weapon enhancement violates double jeopardy provisions and his right to equal protection of the law.

There is no double jeopardy violation. RCW 9.94A.310 clearly establishes that a person who commits certain crimes while armed with a deadly weapon will receive an enhanced sentence, notwithstanding the fact that being armed with a deadly weapon is an element of the offense.

The enhancement provisions do not violate equal protection unless it can be shown the prosecutor arbitrarily engaged in selective enforcement of the provisions.

III. EVIDENTIARY HEARING (RCW 9.94A.370)

State v. Wood

42 Wn. App. 78, 709 P.2d 1209 (1985) Division Two

The defendant appealed his exceptional sentence for Indecent Liberties, challenging the sentencing judge's reliance upon disputed material facts. The sentencing judge cannot rely on disputed facts in support of an exceptional sentence and an evidentiary hearing as required by RCW 9.94A.210 must be held. The state must establish the "real facts" by a preponderance of the evidence. The case was remanded for an evidentiary hearing and resentencing based upon a more complete record of the real facts.

State v. Gunther

45 Wn. App. 755, 727 P.2d 258 (1986) Division One

The defendant was convicted of a VUCSA violation and the sentencing hearing was held before the trial judge. There was no request for a separate evidentiary hearing. Both the prosecutor and defense counsel based their sentencing arguments on the evidence at trial. On appeal, the defendant contested the facts because an evidentiary hearing was not held.

The appellate court said the defendant's failure to request an evidentiary hearing amounts to an admission or acknowledgement of the facts as stated by the prosecutor. In addition, the facts relied upon by the sentencing court were supported by the evidence.

State v. Olive

47 Wn. App. 147, 734 P.2d 36 (1987) Division Two

The defendant pleaded guilty to Unlawful Imprisonment and two counts of Simple Assault. The court did not hold an evidentiary hearing to establish a sexual motive in the offenses, but relied on the unsworn statements of the prosecutor, defendant, defense counsel, and the presentence report.

An evidentiary hearing should have been held. It is harmless error, however, to fail to hold an evidentiary hearing when it would only be a formality.

IV. EXCEPTIONAL SENTENCES (RCW 9.94A.120(2) and .210(4))

State v. Baker

40 Wn. App. 845, 700 P.2d 1198 (1985) Division Two

The defendant appealed his one-year and one-day exceptional sentence for Attempted First Degree Escape (range of 2.25 to 6.75 months). The sentence was reversed and remanded for imposition of a sentence within the range. The departure relied on a finding that the defendant "used sophisticated and well-planned methods to attempt his escape and did take exceptional measures to execute that plan."

Under RCW 9.94A.390, the degree of sophistication and planning involved are expressly listed as aggravating circumstances only in the commission of major economic or drug offenses; however, such factors may be taken into account when determining the sentence for any crime. However, because planning is inherent in the crime of escape and the facts in this case did not reveal the use of weapons, threats or actual injury to people or property or plans to take hostages, the planning was not a compelling reason for sentencing outside the standard range.

State v. Hartley

41 Wn. App. 669, 705 P.2d 821 Division Two

Rev.den 104 Wn. 2d 1028 (1985)

The defendant appealed his 36-month exceptional sentence for Taking A Motor Vehicle Without Permission (range of 14 to 18 months). The sentence was reversed and remanded for resentencing. The exceptional sentence was justified on the grounds the range did not provide enough punishment or protection to society in view of defendant's criminal history. Since a defendant's criminal history is factored into the computation of the standard range for an offense, that reason cannot be used to justify an exceptional sentence. ("An exceptional sentence must be based on more than the belief that a defendant's criminal history warrants a longer term of punishment than the standard range would allow.")

State v. Stalker

42 Wn. App. 1, 707 P.2d 1371 (1985) Division Three

The defendant appealed a one-year and one-day exceptional sentence for Unlawful Possession of a Controlled Substance with Intent to Deliver (range of 1 to 3 months). The sentence was affirmed. The defendant tried to sell over 43 pounds of marijuana to a detective for more than \$47,000. The transaction was referred to by the detective as the "largest drug buy of marijuana made in the Tri-Cities."

The length of a sentence outside the standard range is a matter within the judge's discretion and depends upon the particular facts and circumstances involved. The appellate court declined to adopt the Minnesota rule which generally holds an exceptional sentence should not be more than twice the

range. The fact that a sentence is longer than twice the presumptive range is not evidence that it is "clearly excessive" under RCW 9.94A.210(4)(b).

State v. Wood

42 Wn. App. 78, 709 P.2d 1209 (1985) Division Two

The defendant appealed his 30-month exceptional sentence for Indecent Liberties (range of 15 to 20 months). The sentencing judge found four aggravating factors: (1) the defendant's age; (2) the victim's particular vulnerability or inability to resist because of her extreme youth (4 years); (3) the defendant's prior conviction for second degree incest with a child of a similar age; (4) Western State Hospital's previous diagnosis of him as a sexual deviant who is not amenable to treatment and cannot be treated meaningfully for his condition in the Department of Corrections.

When the standard range takes into account the victim's age as an element of an offense, that factor generally will not provide justification for exceeding the range. However, the sentencing judge might consider whether the child was so young that she was particularly vulnerable despite the fact that age was an element. The sentencing judge could not per se consider the similar prior conviction as a basis for an exceptional sentence, but might consider if the prior victim was also particularly vulnerable because this would demonstrate a pattern of predatory sex offenses upon particularly vulnerable victims by one who cannot be treated for the deviancy. In terms of the length of the sentence, the record must support a course of treatment or duration of confinement in excess of the standard range and "the length of an exceptional sentence cannot come out of thin air."

State v. Armstrong

106 Wn. 2d 547, 723 P.2d 1111 (1986)

The defendant appealed his five-year sentence for Second Degree Assault (range of 12+ to 14 months). While babysitting a ten-month old baby, the defendant lost control when the baby would not stop crying. He threw boiling coffee on the infant, then plunged the baby's foot into hot coffee when he continued to cry. The defendant then drove the baby to a hospital where he was treated for first and second degree burns on his face and feet.

The exceptional sentence was justified on four grounds: 1) the victim was a totally defenseless ten-month old child; 2) the child was injured twice; 3) the injuries were very serious; 4) the incident could have been avoided had the defendant simply walked away from the crying child.

The first two reasons alone justified an exceptional sentence. The extreme vulnerability of the victim is one of the specifically listed aggravating circumstances (RCW 9.94A.390(2)(a)). Multiple injuries are allowed as an aggravating factor in a second degree assault, since "multiple . . . incidents per victim" is an example of an aggravating circumstance for major economic offenses.

The third and fourth reasons were insufficient. Serious burns come within the definition of the crime and were already accounted for in determining the

presumptive sentence range. The finding that the crime could have been avoided by the defendant was not adequate as this argument holds true for any crime.

The defendant argued the court failed to consider the following mitigating circumstances: 1) the defendant had no prior crimes of violence; 2) the defendant took the child to the hospital; 3) the assault was not premeditated; and 4) the defendant confessed. The presumptive range already accounted for the defendant's criminal history. The lack of premeditation and effort to obtain hospital attention were judged to show the lack of an aggravating circumstance, which does not create a mitigating circumstance. The defendant's confession could qualify as a mitigating circumstance, however it was outweighed by the nature of the crime.

The five-year term was not "clearly excessive", considering that the crime was not a routine Second Degree Assault but rather a "flagrant act of child abuse requiring severe punishment", and the sentence imposed was one-half the statutory maximum.

State v. Harp

43 Wn. App. 340, 717 P.2d 282 (1986) Division Two

The defendant appealed his concurrent six-year sentences for Second Degree Statutory Rape and Indecent Liberties by Forcible Compulsion (range of 21 to 27 months for each count). The case was reversed and remanded for resentencing due to the appellate court's rejection of one of the four reasons which were relied upon, and the lack of reasons supporting the length of the exceptional sentence.

The sentencing judge based the exceptional sentence on four findings: 1) the victims were repeatedly molested and the acts occurred over a considerable period of time; 2) the defendant used his position of trust (babysitter for his child relatives) to facilitate the molestations; 3) the niece was particularly vulnerable due to threats and the living situation; and, 4) the defendant refused to enter treatment, presented a likelihood of reoffending, and was not safe to be at large.

Ongoing sexual molestation was an improper basis for an exceptional sentence because the SRA clearly prohibits reliance on real facts that establish elements of additional crimes to go outside the presumptive range, except upon stipulation and no such stipulation was made. The other reasons were upheld. The sentencing judge was directed to support his reasons for imposing the length of the particular sentence, with reference to the purposes of the SRA (RCW 9.94A.010).

State v. Nelson

43 Wn. App. 871, 719 P.2d 961 (1986) Division Two

The state appealed a one-year exceptional sentence for First Degree Robbery (range of 31 to 41 months). The sentence was reversed and remanded for sentencing within the standard range. The sentencing judge concluded the standard range was too severe for the defendant, relying on the justification

that the defendant was induced by others to participate in the crime and played a secondary role in the crime, he testified on behalf of the state against a codefendant, and he would lose his military career if incarcerated. The court noted that the defendant did not have any previous criminal history even though he had grown up in the inner city of Detroit.

The record did not support the finding that the defendant had no predisposition to commit the crime. Since the Sentencing Reform Act treats both principals and accomplices as equally culpable, lesser participation in the crime applies only when it is combined with concern toward the victim (RCW 9.94A.390(1)(f)). Since no such concern was shown by the facts in this case, this rationale for departure was not supported.

In terms of the defendant's assistance to the state, the defendant received the benefit of a plea bargain which included dropped charges and a lower sentencing recommendation. The defendant's lack of criminal history was not an appropriate mitigating factor because it is factored into the range, and even though misdemeanors are not scored into the determination of the range, the absence of criminal history "should be the norm in our society." The legislature intended to reduce judicial discretion with this sentencing reform, and the sentencing judge is not a "knight-errant" roaming at will in pursuit of his own ideal of beauty or goodness."

State v. Nordby

106 Wn. 2d. 514, 723 P.2d 1117 (1986)

The defendant appealed a 16-month exceptional sentence for Vehicular Assault (range of 6 to 12 months). The sentence was affirmed. The defendant was intoxicated and a passenger in a car when the car passed two pedestrians pushing their bicycles on the shoulder of the road. The defendant reached across the driver, grabbed the steering wheel and jerked it suddenly to the right. The automobile struck a 15-year old girl who was carried up onto the hood of the car, striking the windshield.

The sentencing court relied on three justifications for the departure: 1) the particular vulnerability of the victim; 2) the defendant's intentional mental state when he committed the crime; and 3) the seriousness of the victim's injuries. The first and second factors were proper but the third factor was not because serious bodily injury is a prerequisite for Vehicular Assault. The defendant's mental state was especially culpable, as he was not only intoxicated but the record showed he "intentionally grabbed the steering wheel of the automobile and turned it into the direction of the victim." The particular vulnerability of the pedestrian victim distinguished the case from usual Vehicular Assaults, where the victim has the protection of a vehicle and a greater ability to evade a reckless driver.

State v. Oxborrow

106 Wn. 2d. 525, 723 P.2d 1123 (1986)

The defendant appealed his consecutive ten- and five-year prison terms for First Degree Theft and violation of a cease and desist order in connection with the sale of securities. The defendant was sentenced for activities

related to a pyramid scheme involving a \$58 million loss to approximately 1,000 investors. The sentencing judge's sentences were affirmed on all counts.

The defendant argued the sentences were "clearly excessive" under the SRA and the sentencing court had no authority to impose consecutive sentences under the SRA. In addition, he claimed the trial court violated the SRA and denied his constitutional right to due process of law by considering evidence both prior to and during his sentencing hearing.

The term "clearly excessive" should be reviewed on an abuse of discretion standard and be given a similar interpretation as was given to the phrase in the Juvenile Justice Act by State v. Strong, 23 Wn. App. 789, 794, 599 P.2d 20 (1979):

The term "clearly excessive" is not defined in the Juvenile Justice Act of 1977 and therefore, must be given its plain and ordinary meaning. Action is excessive if it "goes beyond the usual, reasonable, or lawful limit." Thus, for action to be clearly excessive, it must be shown to be clearly unreasonable, i.e., exercised on untenable grounds or for untenable reasons, or an action that no reasonable person would have taken."

The Minnesota rule, which generally limits exceptional sentences to no more than twice the presumptive range, was not adopted for three reasons: 1) no statutory authority exists for applying such a rule; 2) the consequential sentence in this case would be 180 days, a "grossly inappropriate" punishment given the facts; and 3) even Minnesota has experienced difficulty applying this rule.

This case fulfilled all the aggravating factors for major economic offenses, and there was no abuse of discretion. ("Surely this is the quintessential crime for which the legislature contemplated a maximum sentence.")

In reference to the court's authority to impose consecutive, rather than concurrent, ten- and five-year sentences, the Supreme Court referenced RCW 9.94A.390(4)(h), the "aggravating circumstance" which contemplates situations where "the operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter." The Supreme Court upheld the total 15-year sentence when the statutory maximum allowed a total of 20 years. Imposition of consecutive sentences under this section of the SRA requires written findings. While that was not done in this case, the findings entered in support of the exceptional sentence were reviewed by the court and used to uphold the consecutive terms.

State v. Taatjes

43 Wn. App. 109, 715 P.2d 1153 (1986) Division Two

The defendant appealed his 24-month exceptional sentence for Manufacturing a Controlled Substance (range of 6 to 12 months). The sentence was affirmed. The exceptional sentence findings were: 1) the defendant was engaged in a sophisticated drug enterprise employing substantial laboratory

equipment and ingredients; 2) the defendant manufactured larger quantities of controlled substances than could be used for personal consumption; 3) the defendant occupied a major position and had significant status in the drug distribution system; 4) the defendant had a prior history of drug violations, and rehabilitation did not occur as a result of that prior felony punishment.

For purposes of RCW 9.94A.390(4)(f), the evidence supported the conclusion that the operation used substantial equipment that was excessive in size, demonstrating a substantial and sophisticated manufacturing operation. Since the defendant was manufacturing controlled substances for distribution to others, he occupied a high position in the drug distribution hierarchy for purposes of RCW 9.94A.390(4)(e). The appellate court agreed with the defendant that the history of prior offenses and lack of rehabilitation were already accounted for in the standard range, but decided that the other valid reasons upheld the court's ruling.

State v. Pascal

108 Wn. 2d 125, 736 P.2d 639 (1987)

The defendant, charged with Second Degree Murder and Manslaughter, was convicted of First Degree Manslaughter for the stabbing death of her boyfriend (range of 31 to 41 months). The trial court imposed an exceptional sentence of 90 days, (30 days total confinement, 30 days partial confinement, 240 hours of community service, and one year of community supervision). The state appealed.

The defendant argued the state lacked a statutory right to appeal an exceptional sentence and only had the right to seek discretionary review under RAP 2.3. The Supreme Court disagreed. RCW 9.94A.210(2), providing the state the right to appeal, controls rather than the Rules of Appellate Procedure. The rules govern only the manner in which exceptional sentences may be appealed, but the legislature determines whether such appeals may be heard at all.

The defendant asserted the double jeopardy clauses of the state and federal constitutions prohibit the state from seeking imposition of a longer sentence on appeal. (The defendant had fully served the sentence imposed by the trial court.) The Supreme Court held double jeopardy is not violated when the state appeals a sentence below the presumptive range, claiming the initial pronouncement of sentence was erroneous and seeking a longer sentence.

The trial court based its exceptional sentence on the following mitigating circumstances: (1) the victim was an initiator, willing participant or aggressor of the incident; (2) the defendant committed the crime under duress insufficient to constitute a complete defense but which significantly affected her conduct; (3) the defendant's capacity to appreciate the wrongfulness of her conduct was significantly impaired because she is a battered woman. The Supreme Court found sufficient basis in the record for those mitigating factors and upheld the exceptional sentence.

The trial court also justified an exceptional sentence on four SRA purposes: (1) ensure the punishment was proportionate to the offender's criminal history (zero); (2) the defendant does not pose a threat to the public;

(3) offer the defendant an opportunity to improve herself; and (4) frugal use of the state's resources. The Supreme Court held that these considerations, standing alone, would not justify an exceptional sentence.

Because the criminal history is used to compute the presumptive range, it may not be counted again as a mitigating circumstance to justify departure from the range. Protection of the public, rehabilitation, and the need to make frugal use of state resources, the other reasons relied upon by the court, have already been considered by the legislature in setting the standard range. The trial court's subjective determination that these ranges are unwise or that they do not adequately advance the above goals is not a substantial and compelling reason justifying a departure.

The state argued a sentence of 90 days plus an additional year of community supervision was "clearly too lenient." The abuse of discretion standard of review is applicable in determining whether a sentence is clearly too lenient. Under the abuse of discretion standard, a sentence will be adjudged "clearly too lenient" only if the trial court's action was one that no reasonable person would have taken. See State v. Armstrong, 106 Wn.2d 547, 723 P.2d 1111 (1986) (applying this standard of review to sentences which are allegedly "clearly excessive"). Under that standard, this sentence was upheld.

State v. Gunther

45 Wn. App. 755, 727 P.2d 258 (1986) Division One

The defendant was convicted of Delivery of a Controlled Substance: Cocaine, which carries a standard range of 12+ to 14 months. The court imposed a 24-month sentence, relying on the size of the drug transaction and possession of a firearm.

The size of the drug deal (one-half pound of cocaine) justifies the exceptional sentence. Possession of a firearm may not be used to aggravate the sentence because the SRA provides for an increase in the standard range where a firearm is present in certain types of crimes. Therefore, the prosecutor must charge and prove the weapon.

The state is not required to give notice before trial that it may seek an exceptional sentence.

State v. Swanson

45 Wn. App. 712, 726 P.2d 1039 (1986) Division Two

The defendant pleaded guilty to Taking A Motor Vehicle Without Owner's Permission. The standard range was 0 to 90 days; the court imposed a 9-month sentence. During the evidentiary hearing, it was established the defendant damaged the vehicle, pushed it over an embankment, and abandoned it. The trial court, relying on the unusual economic damage, imposed an exceptional sentence. The appellate court reversed.

The real facts established the additional uncharged crime of First Degree Malicious Mischief. Uncharged crimes may not justify an exceptional

sentence. The real facts doctrine applies to additional uncharged crimes as well as crimes charged and dismissed.

State v. Payne

45 Wn. App. 528, 726 P.2d 997 (1986) Division Two

The defendant pleaded guilty to Second Degree Assault after being charged with First Degree Rape for twice driving his victim to a remote area and forcing her to perform sexual acts. The court found the victim was vulnerable because of her size, the offense was particularly cruel and the defendant had a high psychological predisposition to reoffend. The court then imposed a 5-year sentence, rather than the standard range of 3 to 9 months. The Court of Appeals reversed.

There is no evidence in the record to support the findings relied on by the court. Victim vulnerability was based on the victim's size. Although the court may take judicial notice of physical attributes, such notice must be of facts not subject to reasonable dispute. This finding cannot be upheld on appeal if it was disputed by the defense counsel and the basis does not appear in the record. "Deliberate cruelty" is a conclusion and does not allow evaluation; the record must reflect the underlying facts. The psychological report of future dangerousness may not be relied on in the absence of a history of similar acts or other corroborating evidence.

State v. Ratliff

46 Wn. App. 325, 730 P.2d 716 (1986) Division One

The defendant was convicted of Second Degree Malicious Mischief. The standard range was 0 to 90 days; the court imposed 180 days because of the defendant's past misdemeanor convictions and because the present offense involved conduct directed at the property of law enforcement authorities.

The Court of Appeals held the defendant's history of misdemeanor convictions is a substantial and compelling reason justifying a departure. The defendant had 34 misdemeanor convictions, including several convictions for property destruction. The lack of a misdemeanor record may not be used as a mitigating factor. See State v. Nelson, 43 Wn. App. 871, 719 P.2d 961 (1986). Because that factor alone supported the exceptional sentence, the court did not address whether it was justifiable to rely on the nature of the offense to justify a departure.

State v. Weaver

46 Wn. App. 35, 729 P.2d 64 (1986) Division Three

The defendant pleaded guilty to Vehicular Assault (range of 3 to 9 months). The prosecutor recommended 18 months; the court sentenced the defendant to 30 months.

The sentencing court cited the following reasons for the exceptional sentence: the defendant should have known there would be other people on the road subject to his erratic driving, the monetary impact on the victim and his family was high, the defendant was in contempt of court at the time of

the offense for driving while intoxicated and without insurance or a valid license, and his prior record indicated his disregard of court orders and lack of rehabilitation effort.

The court may not use elements of the offense to justify an exceptional sentence. Therefore, the court may not use injury to another driver or the extent of those injuries to justify an exceptional sentence. However, the defendant's disregard for the consequences of alcohol use justifies an exceptional sentence. The facts of this offense, including the .20 blood alcohol content, are more onerous than the circumstances contemplated by the legislature when it established the standard sentence range.

State v. Gonzales

46 Wn. App. 388, 731 P.2d 1101 (1986) Division Three

The defendant was convicted of Second Degree Burglary, theft, and three VUCSA counts. The court imposed an exceptional sentence of 43 months for the burglary and theft charges and 12 months for the drug charges. The exceptional sentence was based on the court's determination the SRA multiple offense policy was too lenient, the multiple victims suffered major economic losses, and the offense involved an abuse of a position of trust or confidence. The case was remanded for sentencing within the range.

An exceptional sentence must be based on more than a mere belief a defendant's criminal history warrants a longer term of punishment than the standard range allows. State v. Nordby, 106 Wn. 2d 514, 723 P.2d 1117 (1986). A trial court's belief that a presumptive sentence range results from a "loophole" in the SRA is not grounds for imposing a sentence beyond the standard range.

The major economic loss factor was based on the testimony of one victim that items other than those recovered from the defendant immediately after the burglary had been taken and were still missing. The state could not prove by a preponderance whether the items were taken during this burglary or a previous one. If the state had met its burden and proved the defendant had taken the item previously, it would have established an uncharged crime that cannot be used to go outside the presumptive sentencing range except upon stipulation (RCW 9.94A.370).

A showing that the defendant may have visited the victim's home one time and other members of his family may have occupied a position of trust with the victim, without evidence those family members provided the defendant with "inside information," is insufficient to establish abuse of a position of trust as an aggravating factor. There must be evidence that the defendant's prior contact with the victim involved trust, confidence, or a fiduciary relationship. See State v. Oxborrow, 106 Wn. 2d 525, 723 P.2d 1123 (1986).

State v. Ratliff

45 Wn. App. 789, 46 Wn. App. 466, 731 P.2d 1114 (1986) Division One

The defendant was found guilty of Intimidating a Witness. The standard range was 15 to 20 months; the court imposed a 40-month sentence. After

the verdict and despite a no-contact order, the defendant continued to contact and threaten the witness. The court imposed an exceptional sentence relying on the defendant's deliberate cruelty to the victim, the severe emotional distress suffered by the victim, and invasion of the victim's "zone of privacy".

The defendant's post-trial conduct of calls, intimidation, and harassment of the victim could not be considered at sentencing because it constituted additional but uncharged crimes.

The exceptional sentence is justified because this offense was more serious than that typically involved in Intimidating a Witness. It included anonymous and repetitive threats and infliction of excessive mental anguish and an invasion of privacy. A court may consider the nature and degree of harm suffered by the victim, the perpetrator's mental state when committing the crime, and his lack of remorse thereafter.

In Re Rolston (pre-SRA case)

46 Wn. App. 622, 732 P.2d 1114 (1987) Division Two

A pre-SRA offender violated his probation for Indecent Liberties. His probation was revoked and he was returned to the court for a minimum release date. The court imposed a sentence greater than the SRA presumptive range and used as justification the defendant's subsequent offense, the age and vulnerability of the victim, frequency and degree of the original offense, flagrant violations of probation prohibitions, creating and abusing trust, repeated failure of treatment, lack of appreciation for damage caused, and potential danger to the community.

The defendant filed an appeal. This procedure was incorrect. The proper procedure to obtain review of a trial court decision fixing a minimum term of incarceration is to file a personal restraint petition.

The trial court must consider the presumptive ranges contained in the act when setting a minimum term. It must follow these ranges or provide adequate reasons supported by the record for the departure. However, in some instances, appropriate reasons for departing from the range under the former system, with its rehabilitative goal, will differ from those reasons which are acceptable under the SRA.

Although it is inappropriate to consider a subsequent offense under the SRA, in this case, the numerous and flagrant probation violations provide evidence of defendant's lack of meritorious effort at rehabilitation and his inclination to continue to reoffend. These may be considered. The other reasons cited by the court relating to victim vulnerability are appropriate and the sentence is upheld.

State v. Davis

47 Wn. App. 91, 734 P.2d 500 (1987) Division One

The defendant appealed his exceptional sentence for First Degree Robbery and First Degree Assault. The defendant argued the court failed to enter findings on the two mitigating factors which were alleged.

Although the trial court must consider any mitigating factors when imposing a sentence beyond the standard set by the legislature, it need not enter into a balancing of aggravating and mitigating factors on the record. State v. Armstrong, 106 Wn. 2d 547, 723 P.2d 1111 (1986) suggests that the aggravating and mitigating factors only be considered, but does not require consideration on the record.

State v. Dennis

45 Wn. App. 893, 728 P.2d 1075 (1986) Division Three

The codefendants plead guilty to First Degree Rape and First Degree Kidnapping. The court, relying on deliberate cruelty and the purposeful and thought-out course of conduct, imposed exceptional sentences (ranges of 67 to 89 months and 72 to 96 months, sentences of 180 months).

Both factors were supported in the record. Deliberate cruelty existed where the court finds there have been multiple penetrations, both vaginally and orally, and where the defendants raped the victim in gang fashion.

State v. Olive

47 Wn. App. 147, 734 P.2d 36 (1987) Division Two

The defendant appealed his exceptional sentence after pleading guilty to Unlawful Imprisonment and two counts of Simple Assault. The standard range on the Unlawful Imprisonment was 3 to 8 months; the court imposed a sentence of 14 months. The exceptional sentence was based on the victim's vulnerability (an 8-year old girl), the defendant's mental state, his need for confined treatment, and his past record of sexual offenses indicating a continuing danger to society.

The disparity in size and strength between the 8-year old female victim and the 27-year old male defendant was sufficient to establish victim vulnerability.

Where there is a history of similar acts or corroborating evidence, the court may enhance the sentence on the basis of a considered assessment of future dangerousness. State v. Payne, 45 Wn. App. 528, 726 P.2d 997 (1986), holds only that the court cannot rely solely on the offender's personality or predicted dangerousness. Misdemeanor history may only be used to go outside the range if it is not factored into the standard range. Incarceration is a form of treatment and at least inhibits the defendant from harassing others, therefore, it is not a clearly erroneous reason for departure.

State v. Altum
47 Wn. App. 495, 735 P.2d 1356 (1987) Division Two

The co-defendants appealed their exceptional sentences for two counts of First Degree Rape and one count of Second Degree Robbery. The court counted each of the three convictions separately and gave exceptional sentences, to run concurrently, to both of the defendants. The sentences were proper.

The defendants argued the trial court's failure to merge the two counts of rape and one count of robbery into one count of rape resulted in double jeopardy. This argument was not well taken because the sentences ran concurrently.

The defendants argued the trial court incorrectly calculated their criminal history by counting each of their current convictions separately. The appellate court held an exceptional sentence is not automatically voided just because a trial judge is mistaken or ill informed as to the applicable presumptive sentence. The central inquiry is: do the reasons given by the trial judge justify the exceptional sentence and if so, is the exceptional sentence clearly excessive when it is viewed in relation to the correct presumptive sentence.

Even assuming the error in calculation, there was sufficient basis for the exceptional sentences as the reasons were substantially compelling. There was extreme cruelty to the victim, the victim was particularly vulnerable (a young woman lost on a highway), and the defendants' actions were beyond those normally associated with the crimes (multiple penetrations and gang rape).

One defendant claimed he committed the charged crimes under duress from the other defendant. He presented testimony about his defendant personality. The trial court did not find any mitigating factors. The appellate court determined the record did not support any mitigating factors. A trial court is not required to enter findings regarding mitigation where the aggravating factors entered support the exceptional sentence.

The sentences were not clearly excessive (72 months over the standard range for one defendant and 350 months over the standard range for the other).

State v. Russell
47 Wn. App. 848, 737 P.2d 698 (1987) Division One

The defendant appealed his sentence for three counts of Unlawful Delivery of a Controlled Substance and one count of Unlawful Possession of a Controlled Substance. He argued the trial court abused its discretion in sentencing him at the high end of the standard range when there was evidence to support the mitigating factor of duress.

When the sentence given is within the standard range, there can be no abuse of discretion regarding the length of sentence imposed. The trial court has no duty to enter findings on mitigating factors unless it sentences below the standard range.

State v. Fisher

108 Wn. 2d 419, 739 P.2d 683 (1987)

The defendant was convicted of two counts of Indecent Liberties and received an exceptional sentence of 24 months for each count, such terms to be served concurrently (range of 15 to 20 months for each count).

The trial court based its exceptional sentence on: a) the victim's vulnerability due to extreme youth, b) multiple acts with the same victim; c) the defendant used his position of trust and confidence to facilitate the crime; and d) the multiple offense policy of the SRA results in a presumptive sentence which is clearly too lenient.

The extreme youth of an Indecent Liberties victim may be considered as an aggravating circumstance even when an element of the offense is a victim less than 14 years of age.

The multiplicity of incidents did not justify an exceptional sentence, since each incident resulted in a separate conviction and there is no evidence that the multiplicity of the offenses had any egregious effects. Because the exceptional sentence was justified on the victim's extreme youth, no decision was reached on whether the trust violation was a substantial and compelling reason justifying a departure.

State v. Bernhard

108 Wn. 2d 527, 741 P.2d 1 (1987)

The defendant plead guilty to Second Degree Burglary. The trial court found the defendant's criminal behavior was the direct result of his addictions to drugs and alcohol and imposed an exceptional sentence of 12-months confinement to be served in the inpatient Teen Challenge Drug Treatment Program. The state challenged the trial court's power under the SRA to sentence a defendant with a prior criminal record to an inpatient drug treatment facility.

A trial court's authority to impose an exceptional sentence under RCW 9.94A.120(2) includes authority to specify exceptional conditions to a community supervision sentence other than those permitted under a standard sentence. For all defendants sentenced to confinement of one year or less, the trial court has the authority to select which of the available county facilities (as defined in RCW 70.48.020) best suits the defendant's situation.

The sentencing judge had the authority to consider the defendant's addictions as justification for an exceptional sentence, not in the context of diminished capacity, but rather as a direct cause of his criminal conduct from which the public could not be protected unless he received treatment for his addictions.

State v. McAlpin
108 Wn. 2d 458, 740 P.2d 824 (1987)

The defendant appealed a 90-month exceptional sentence for First Degree Robbery (range of 46 to 61 months). The exceptional sentence was partially based on the defendant's lengthy juvenile record, including juvenile felony convictions which occurred prior to the defendant's fifteenth birthday, several commitments to juvenile institutions, and other felony arrests handled informally.

The defendant's counsel did not challenge the accuracy of the juvenile record at the sentencing hearing; thus the defendant was not entitled to challenge the record at an evidentiary hearing after sentencing.

The pre-age 15 felonies are excluded from the defendant's standard range calculation and justify an exceptional sentence. Uncharged crimes or crimes charged and later dismissed cannot be considered by the court in imposing an exceptional sentence. The defendant's sentence does not approach the statutory maximum and is not clearly excessive.

State v. Green
109 Wn. 2d 207, ___ P.2d___ (1987)

The defendant entered a store, brandished a handgun, and took money from the victim. Then he struck the victim from behind with a gun, knocking him to the floor, whereupon he shot the victim once in the back. After the victim yelled for help, the defendant returned and shot him again in the back. The sentencing judge imposed a 480-month term for the Attempted Murder count (range of 203.25 to 270.75 months). The exceptional sentence was justified on three factors: 1) planning; 2) sophistication; and 3) manifest cruelty to the victim and multiple incidents.

Since planning is the premeditation element of Attempted First Degree Murder, it does not justify an exceptional sentence, nor does the sophistication of the crime. The defendant's deliberate cruelty and multiple incidents per victim are appropriate aggravating factors. Since two of the three reasons were invalidated, and the imposed sentence was 20 years higher than the midpoint of the standard range, the case was remanded back to the trial court for reconsideration.

V. INDETERMINATE SENTENCING SYSTEM

State v. Hartley

41 Wn. App 699, 705 P.2d 821 (1985) Division Two
Rev. den 104 Wn. 2d 1028 (1985)

The defendant appealed his exceptional sentence for Taking a Motor Vehicle Without Permission. One issue concerned the computation of the standard range, with the defendant arguing that five Oregon convictions between 1977 and 1984 were served concurrently. For purposes of RCW 9.94A.360(11), which requires all "convictions served concurrently" to be counted as a single prior offense in computing the standard range for an offense, multiple convictions are counted as one only if their sentences are judicially imposed to be served concurrently. The mere fact that sentences for different offenses overlapped does not make them concurrent sentences.

Addleman v. Board of Prison Terms

107 Wn. 2d 503, 730 P.2d 1327 (1986)

Pre-SRA prisoners sought application of the SRA standard sentence ranges to their crimes.

For pre-SRA prisoners, RCW 9.95.009(2) mandates the Indeterminate Sentence Review Board to make decisions reasonably consistent with the SRA. The Board is required to consider the purposes, standards, and ranges of the SRA and make decisions reasonably consistent with them. In making such decisions, the Board and its successors shall consider the different charging and disposition practices under the indeterminate sentencing system.

State v. Andrews

43 Wn. App. 49, 715 P.2d 526 (1986) Division Three

The defendant appealed a 34-month exceptional sentence within the standard range for Unlawful Delivery of a Controlled Substance. The sentence was affirmed. The defendant contended that ordering his current sentence to run consecutive to his sentence on previous SRA drug convictions was a denial of equal protection and resulted in a clearly excessive sentence. The Court of Appeals declined to find that there was any constitutional disparity in the present treatment of defendants with pre-SRA felonies (who will have unexpired sentences which must be served before the new SRA sentence) and those with SRA prior felonies who will have no unexpired terms to serve. The appellate court stated the sentence imposed was a standard range sentence, and arguments about its excessiveness "should be addressed to the legislature."

The state argued the defendant could not appeal the sentence because it fell within the standard range. The appellate court ruled an accelerated sentence appeal was proper because if the sentencing court had improperly ordered consecutive sentences, the sentence would be outside the range and therefore an appropriate sentence to appeal.

State v. Southerland

43 Wn. App. 246, 716 P.2d 933 (1986) Division Three

The defendant appealed his sentence for one count of First Degree Burglary and three counts of Second Degree Assault, the sentences to be served concurrently. The defendant contended a discharge from parole precludes using the offense in an offender score calculation, as the discharge is tantamount to a discharge under RCW 9.94A.220 and should be considered vacant from his record pursuant to RCW 9.94A.230. The vacation provisions of RCW 9.94A.220 do not apply because the defendant was not "conviction-free" for the necessary amount of time and the charge was not dismissed, therefore it did not qualify as dismissal under RCW 9.95.240.

VI. OFFENDER SCORE CALCULATIONS (RCW 9.94A.360)

A. Calculation Error

State v. Perkins

46 Wn. App. 333, 730 P.2d 712 (1986) Division One

The defendant pleaded guilty to two VUCSA counts pursuant to a plea agreement which incorrectly stated the standard sentencing range for the offense as a result of a clerical error made by the prosecutor in developing the plea agreement. The prosecutor noted the error before sentencing and asked the court to sentence the defendant to the higher standard range established by the corrected form. The court refused and sentenced the defendant according to the agreed plea form. The state appealed.

The state's appeal was allowed because the sentence imposed was not within the standard range for the offense. It was error for the sentencing court not to acknowledge the new information offered by the prosecutor prior to sentencing and to impose a sentence outside the standard range for the offense unless it was an exceptional sentence pursuant to RCW 9.94A.120.

When an error in computation is discovered between acceptance of the plea and sentencing, the defendant must be allowed an opportunity to withdraw the plea. The defendant may not withdraw the plea if he bears some responsibility for the misinformation.

State v. Myers

No. 16795-2-I (1987) Division One

The defendant pleaded guilty to Taking A Motor Vehicle Without Owner's Permission. Based on an offender score of 0, he was sentenced to 60 days. After he completed the sentence and was released, it was discovered he had a number of prior offenses under different names. The state's motion to reconsider the sentence was granted, the defendant's offender score adjusted to 3, and a six-month jail sentence was imposed. The defendant objected, arguing the court lacked jurisdiction because he had already completed the previously imposed sentence.

The court's action in vacating the sentence was proper. The court continues to have authority to vacate the sentence of a defendant whose fraud results in an incorrect sentence. Vacation of the sentence is appropriate under SRA, considering the critical role of criminal history in determining the standard sentence range.

(Although this opinion was not published, it is included because the issue is frequently debated in sentencing hearings.)

B. Consecutive/Concurrent Prior

State v. Johnson

48 Wn. App. 531, 740 P.2d 337 (1987) Division One

The defendant appealed his convictions for three counts of Second Degree Robbery. At sentencing, the court treated a prior robbery and Possession of Stolen Property convictions as two separate convictions for the purpose of calculating criminal history. The defendant argued that because his suspended sentence for Possession of Stolen Property was served during his incarceration for the prior robbery conviction, the two should be considered concurrent within the meaning of former RCW 9.94A.360(11) and counted as one felony in his offender score.

The reasoning in State v. Hartley applies (41 Wn. App. 669, 705 P.2d 821, review denied, 104 Wn. 2d 1028 (1985)). When prior concurrent sentences were judicially imposed, the legislative intent was that they be scored as one offense for the offender score calculations. The court did not provide in the defendant's judgment and sentence that the suspended sentence for the Possession of Stolen Property was to be served concurrently with the sentence for the prior robbery conviction. Thus, the prior convictions are to be counted separately in the offender score.

C. Counting Prior and Current Offense

State v. Garrison

46 Wn. App. 52, 728 P.2d 1102 (1986) Division One

The defendant contested the computation of his offender score which included two convictions for offenses committed before the current offense but adjudicated after it. The defendant argued the two convictions should not be counted because they were not convictions at the time of the current offense. The court properly counted them.

A sentencing court may consider any valid conviction or adjudication that exists prior to the date of sentencing in computing the offender score under the SRA. The date of conviction controls, not the offense date. See RCW 9.94A.360, effective for crimes committed after July 1986, defining criminal history as all prior and current history.

State v. Southerland

43 Wn. App. 246, 716 P.2d 933 (1986) Division Three

The defendant appealed his sentence for one count of First Degree Burglary (75 months) and three counts of Second Degree Assault (56 months each), the sentences to be served concurrently. At issue were two out-of-state convictions and the timing of the verdict, judgment and sentence in the current offense. The sentence was affirmed. The appellate court ruled that since the defendant failed to object to information in the presentence report, the court deemed it "acknowledged" for the purpose of RCW 9.94A.370. The appellate court found the out-of-state theft conviction was appropriately classified as a felony under Washington law, since the value of the stolen

property was sufficient to constitute felony theft in Washington. Discharge from parole is not tantamount to a discharge under RCW 9.94A.220, and the prior conviction may still be used as criminal history.

D. Federal Prior

State v. Binder
106 Wn.2d 417, 721 P.2d 967 (1986)

The defendant contested the computation of his offender score which included four federal crimes: three firearm-related offenses and an escape. The firearm-related offenses were all entered on the same date; the escape conviction was entered 4 years later. All the federal sentences ran concurrently.

The trial court properly treated the three weapons convictions as a single conviction. But the court counted the escape separately, not noticing that it had been served concurrently with the weapons' offenses. This was an error. If the sentences are served concurrently, they are counted as one offense regardless of the date of conviction.

State v. Brown
47 Wn. App. 565, 736 P.2d 693 (1987) Division One

The defendant appealed the computation of his offender score. The court counted a federal automobile theft charge in which the defendant was sentenced as a youth offender, although he was 21 at the time he stole the automobile.

The court properly counted the federal conviction. The mere fact that he was sentenced as a youth offender does not make it a juvenile offense under Washington law. Washington's definition of juvenile offender as an offender under 18 controls.

E. Juvenile Prior

State v. Randle
47 Wn. App. 232, 734 P.2d 51 (1987) Division One

The defendant was convicted of First Degree Burglary. The court counted a prior juvenile burglary and sentenced the defendant within the standard range of 21 to 27 months. If the juvenile offense were not counted, the standard range would have been 15 to 20 months. The defendant contested the proof of the prior convictions.

Prior convictions may be proved by a preponderance of the evidence. A certified copy of the juvenile order of disposition bearing the name of the defendant is sufficient proof of the prior conviction unless the defendant declares under oath he is not the person named.

Juvenile convictions for offenses committed before the SRA effective date may be counted. Because the defendant is punished only for conduct occurring after the SRA's effective date, it cannot be said that the act changes the legal consequences or underlying nature of the prior juvenile offenses. The SRA is not retrospective and there is no ex post facto violation.

The SRA does not violate the separation of powers' doctrine.

F. Habitual Criminal Prior

State v. Johnson

46 Wn. App. 302, 730 P.2d 703 (1986) Division One

The defendant pleaded guilty to two counts of Second Degree Burglary. In computing his offender score, the court included two prior convictions that had been reviewed during a 1981 habitual criminal proceeding. In the 1981 proceeding, the court determined the state had failed to prove the constitutional validity of those two convictions beyond a reasonable doubt. At sentencing, the defendant argued the state was precluded from using those convictions because the earlier court ruling was sufficient to show the convictions were unconstitutional and/or because of collateral estoppel.

The Court of Appeals held that the 1981 proceeding did not determine that the previous convictions were unconstitutional, only that the state had not met its burden for purposes of that case. Therefore, there was no prior determination of unconstitutionality and the convictions may be used to compute the offender score.

Collateral estoppel does not bar the use of the convictions because the issues raised in the two proceedings are not identical and the proceedings achieved different purposes.

G. Other Current Offense

NOTE: See the 1987 amendments to RCW 9.94A.400(1)(a) clarifying the definition of "same criminal conduct."

State v. Gonzales

46 Wn. App. 388, 731 P.2d 1101 (1986) Division Three

The defendant was convicted of two counts of Second Degree Burglary of two separate residences. The sentencing court found the burglaries were separate crimes and did not encompass the same criminal conduct.

The phrase "separate crimes encompassing the same criminal conduct" in former RCW 9.94A.400 has the same meaning as "the same course of conduct" used in the juvenile code. Where the two offenses were not shown to have been committed as part of any ordered or continuing sequence, or under any recognizable scheme or plan, but were committed at different locations and against different victims and were random crimes, they are separate crimes for computing current criminal history.

State v. Clark

46 Wn. App. 856, 732 P.2d 1029 (1987) Division One

The defendant appealed the calculation of his offender score after he was found guilty of two counts of First Degree Robbery and one count of First Degree Assault, all of which occurred at the same time and location involving three victims. In sentencing for the assault, the court counted each of the two robbery convictions as separate current felonies.

The Court of Appeals held, under RCW 9.94A.400(1)(a), all three crimes should have been considered part of the same conduct, since there was no substantial change in the nature of the criminal objective.

State v. Boze

47 Wn. App. 477, 735 P.2d 696 (1987) Division Two

The defendant pleaded guilty to three counts of Unlawful Delivery of a Controlled Substance for three sales on three different dates in a one-month period to the same undercover police officer. On the first occasion, the defendant was armed with a handgun.

The court scored the other currents as history, giving each a score of 4. This increased the standard range to 31 to 41 months from 12+ to 14 months if the first two counts had not been considered. The court sentenced the defendant to 31 months, with a 12-month enhancement for the deadly weapon.

The defendant argued the three sales should be considered the same criminal conduct and counted as one crime in calculating the offender score. The appellate court concluded the crimes did not encompass the same criminal conduct and the score was calculated properly.

Division Two adopted the analysis of State v. Edwards, 45 Wn. App. 378, 725 P.2d 422 (1986). (See p. 39.) Under that analysis, two offenses encompass the same criminal conduct if they are committed as part of an ordered or continuing sequence or under a recognizable scheme or plan with no substantial change in the nature of the criminal objective. In determining whether there is "no substantial change in criminal objective," one must consider whether there was an independent motive for the secondary crime or if the objective was to accomplish or complete the primary crime. See State v. Rienks, 46 Wn. App. 537, 731 P.2d 1116 (1987).

The three drug sales were separate crimes. Each sale was independently accomplished upon its own completion. They were random crimes, committed as the opportunities arose.

The defendant also argued it was error for the court to refuse to consider the first-time offender option without giving reasons for that refusal on the record. The court is not required to consider the defendant's rehabilitative potential on the record.

State v. King

47 Wn. App. 38, 733 P.2d 568 (1987) Division One

The defendant pleaded guilty to four counts of Second Degree Robbery for several robberies of state liquor stores over a period of several weeks. The defendant argued at sentencing that the four current convictions should be counted as one offense in determining his offender score because 1) all the robberies were part of the same course of conduct, and 2) the current offenses should be computed like prior offenses in that if the sentences are served concurrently, they should count as one offense. Both arguments were found not to have merit.

The trial court properly held a series of robberies involving separate victims at different locations does not encompass the same course of conduct, even if closely related in time. See State v. Calloway, 42 Wn. App. 420, 711 P.2d 382 (1985). The trial court correctly sentenced the defendant on each count, using the other current offenses in the offender score and running all the sentences concurrently.

State v. Taylor

47 Wn. App. 118, 734 P.2d 505 (1987) Division Three

The defendant was found guilty of three counts of Delivery of a Controlled Substance. In computing the offender score, the trial court treated the other two delivery offenses as other prior felony drug convictions under former RCW 9.94A.360(8) and assigned two points to each of the other delivery offenses. The trial court also counted a theft conviction which, although entered prior to the VUCSA convictions, occurred after them.

The court improperly scored two points each for the two other delivery offenses (applying 9.94A.360(8) scoring for prior drug convictions). The convictions were not priors because they were entered the same day. The court should have followed RCW 9.94A.360(11) which requires all adult convictions served concurrently to be treated as one offense. The new statute expressly treats current offenses like prior convictions for the purpose of the offender score, and as to multiple offenses committed before July 1, 1986, requires the court to count all adult convictions served concurrently as one offense.

The court properly scored one point for the theft conviction even though the theft offense occurred after the current offenses. Prior convictions are counted as of the day of sentencing, not the offense date. (See the 1986 amendments clarifying the distinction between "prior conviction" and "other current offenses," and the proper scoring of "current offenses.")

H. Out-of-Country Prior

State v. Herzog

48 Wn. App. 831, _____ P.2d _____ (1987) Division One
(Motion for reconsideration filed 10/87)

The defendant was convicted of First Degree Rape and the calculation of his offender score became an issue at sentencing. The trial court found that a

1981 West German rape conviction did not meet the requirements of the United States Constitution in that the defendant's trial was conducted before a panel of only two jurors. Therefore, the conviction was not included in the offender score and the defendant was assigned an offender score of one, counting only a 1978 Idaho conviction. The defendant argued that the Idaho conviction should have been "washed out" under RCW 9.94A.360(2) because the 1981 conviction was found invalid. The state contended both convictions should have been included in the offender score calculation.

Trial by a jury of less than six persons for crimes involving a penalty exceeding six month's imprisonment is a deprivation of the defendant's Sixth and Fourteenth Amendment rights to a trial by jury. The defendant's 1981 conviction is facially invalid and not to be considered in sentencing.

This conviction is also invalid for purposes of applying the "wash-out" statute, resulting in a "conviction-free" period in excess of five years duration between the defendant's remaining convictions. Thus, the 1978 conviction also cannot be used in calculating the defendant's offender score.

I. Out-of-State Prior

State v. Franklin

46 Wn. App. 84, 729 P.2d 70 (1986) Division Three

The defendant was convicted of First Degree Attempted Murder and First Degree Robbery. He appealed the computation of his offender score arguing that an out-of-state conviction was improperly scored because its length of punishment in the other state was equivalent to a Class C felony in Washington law, although its elements compare with a Washington State Class B felony.

In scoring an out-of-state conviction, the actual crime the defendant is convicted of committing and the mental state involved must be the determining factors, not the length of punishment. The sentencing judge may look at the foreign statute, the evidence, and the information contained in the previous presentence report when determining the offender score.

State v. Koepke

47 Wn. App. 897, 738 P.2d 295 (1987) Division Three

The defendant appealed his sentence for First Degree Murder based on the offender score calculations.

The defendant cannot claim for the first time on appeal that the prior convictions used at sentencing were not his.

The defendant's two prior Georgia convictions for burglary should have been counted separately because the two burglaries involved two separate residences, thus did not encompass the same criminal conduct.

J. Plea Agreement

State v. Harris

41 Wn. App. 561, 705 P.2d 280 (1985) Division Three

The defendant entered a guilty plea to First Degree Burglary, First Degree Robbery and Attempted First Degree Rape with the understanding that the standard range for his offense was 42 3/4 to 56 1/4 months based on an offender score of "1" for a prior out-of-state conviction. The sentencing judge recalculated the defendant's offender score as a "4", based on his assessment of the nature of the prior offense, which resulted in a standard range of 54 to 72 months, then sentenced the defendant to 72 months.

The appellate court reversed the sentence because the facts about the prior conviction were known to the parties and the court at the time of the plea. Absent a finding of exceptional circumstance warranting a departure from the previously understood standard range or new information, the sentencing judge must sentence within the range established at the plea hearing or allow the defendant an opportunity to withdraw the plea.

K. Proof of Prior

State v. Morley

46 Wn. App. 156, 730 P.2d 687 (1986) Division Three

The defendant contested the computation of his offender score which included a prior out-of-state conviction. He argued the state must prove the constitutional validity of prior convictions before counting them. The state does not have the affirmative burden of proving the constitutional validity of a prior conviction before use in an SRA proceeding. See State v. Ammons, 105 Wn. 2d 175, 713 P.2d 719, 718 P.2d 797 (1986).

State v. Bemby

46 Wn. App. 288, 730 P.2d 115 (1986) Division One

The defendant contested the computation of his offender score that included a prior conviction in which he had pleaded guilty. He testified he had not been informed of his right to remain silent and did not know the elements of the charged crime. The documents failed to show that he had been informed of his right to remain silent or of the elements of the offense.

A conviction previously determined to have been unconstitutionally obtained or one that is constitutionally invalid on its face may not be used in a sentencing proceeding. "Constitutionally invalid on its face" means a conviction that without further elaboration evidences infirmities of a constitutional magnitude. The validity of the defendant's prior convictions cannot be determined from the face of the guilty plea form. The court properly counted the prior conviction.

State v. Marsh

47 Wn. App. 291, 734 P.2d 545 (1987) Division One

The defendant's offender score included two 1981 juvenile convictions. The judgments and sentences offered to establish these convictions indicated neither the presence of counsel nor a waiver of counsel. The case was remanded for resentencing.

A judgment and sentence that does not reflect representation by counsel or waiver is constitutionally invalid on its face and may not be relied upon by itself. To count such prior convictions, the state may introduce other documents of record, such as minute entries, file documents, plea statements, or plea hearing to establish the presence of counsel or waiver.

L. Traffic Priors

State v. Knowles

46 Wn. App. 426, 730 P.2d 738 (1986) Division One

The defendant appealed his conviction of Vehicular Homicide. The state cross-appealed from the sentence entered arguing the defendant's conviction in district court at age 17 of driving while intoxicated should have been computed in his offender score as an adult conviction, rather than as a juvenile conviction.

The court properly computed the DWI conviction as a prior juvenile conviction rather than an adult conviction. Under applicable rules of statutory construction, "juvenile conviction" is defined in terms of the age of the offender at the time of conviction, not by the court in which the conviction was obtained.

M. Wash-Out

State v. Hall

45 Wn. App. 766, 728 P.2d 616 (1986) Division One

The defendant contested the computation of his offender score which included a 1968 Class C felony. The defendant argued the conviction should "wash out" because he had more than five years without a conviction, from 1972 to 1985. The court counted the conviction because the defendant did have a felony conviction within the five years immediately following the 1968 conviction. The trial court was reversed.

A previous Class C felony is not counted if the person has spent any five consecutive crime free years following the conviction.

VII. PLEA AGREEMENTS (RCW 9.94A.080 and .090)

State v. Jones

46 Wn. App. 67, 729 P.2d 642 (1986) Division Three

The defendant entered a plea of guilty to a misdemeanor pursuant to a plea agreement. (The original charge was a felony.) The court accepted the plea agreement but did not follow the agreed upon recommended sentence. The defendant moved to withdraw her guilty plea.

The sentencing court has the right to disagree with the prosecutor's sentencing recommendation. The defendant may not withdraw her plea when the court does not follow the prosecutor's recommendation. If the plea is voluntarily and knowingly entered, it is valid and may not be withdrawn.

State v. Perkins

46 Wn. App. 333, 730 P.2d 712 (1986) Division One

The defendant pleaded guilty to three VUCSA counts pursuant to a plea agreement which incorrectly stated the standard sentencing range for the offense as a result of a clerical error made by the prosecutor in developing the plea agreement. The prosecutor noted the error before sentencing and asked the court to sentence the defendant to the higher standard range established by the corrected form. The court refused and sentenced the defendant according to the agreed plea form. The state appealed.

The state's appeal was allowed because the sentence imposed was not within the standard range for the offense. It was error for the sentencing court not to acknowledge the new information offered by the prosecutor prior to sentencing and impose a sentence outside the standard range, unless it was an exceptional sentence pursuant to RCW 9.94A.120.

When an error in computation is discovered between acceptance of the plea and sentencing, the defendant must be allowed an opportunity to withdraw the plea. The defendant may not withdraw the plea if he bears some responsibility for the misinformation.

State v. Miller

48 Wn. App. 625, _____ P.2d _____, (1987) Division One

The defendant appealed the denial of his motion to withdraw his guilty plea. The defendant had signed a plea agreement to First Degree Murder, in which the prosecutor agreed to recommend a 20-year term and the defendant was free to argue for whatever sentence he desired, including an exceptional sentence. Since a sentence below the mandatory minimum is not legal for this crime, the defendant's new attorney requested the defendant be allowed to withdraw his plea. The court refused to consider itself bound to impose a mandatory sentence and ordered specific performance of the plea agreement. The court imposed a 20-year sentence, the same term as the mandatory minimum.

When a trial court learns before sentencing that a plea agreement contains erroneous information about a court's sentencing options, the court must correct the error and give the defendant an opportunity to withdraw the plea. See State v. Perkins, 46 Wn. App. 333, 730 P.2d 712 (1986). A sentence not permitted by the SRA cannot be in the interests of justice and cannot be in accord with the prosecuting standards.

VIII. RESTITUTION (RCW 9.94A.140 and .142)

State v. Goodrich

47 Wn. App. 114, 733 P.2d 1000 (1987) Division One

The defendant pleaded guilty to Second Degree Assault and was ordered to pay restitution for wages lost by the victim when she attended the trial and for future medical expenses.

Restitution may not be ordered for wages lost because of attending trial. It may be authorized for lost wages resulting from the injury only.

Restitution may not be awarded for medical expenses not yet incurred by the victim. If there is sufficient evidence to demonstrate the victim is obligated to pay for medical services which will be performed, and there is adequate proof of the amount of obligation, restitution may be ordered. If not, restitution is not yet proper. The court does have continuing jurisdiction and may increase the defendant's obligation if the victim incurs further costs.

IX. SAME CRIMINAL CONDUCT (RCW 9.94A.400)

NOTE: See the 1987 amendments clarifying "same criminal conduct" definition.

State v. Huff (Juvenile Case)

45 Wn. App. 474, 726 P.2d 41 (1986) Division One

The defendant, a juvenile, was convicted of Second Degree Burglary. She contested the calculation of her standard range, arguing that two of her prior convictions arose from the same course of conduct because they occurred during a single visit to one location and were both motivated by resentment of the victim and aimed at damaging the victim's home. The prior offenses, Second Degree Reckless Burning and Attempted Second Degree Burglary, occurred when the defendant lit matches on the front porch and later attempted to kick in a window under the back porch.

The appellate court held the two priors did not encompass the same course of conduct. The crimes lacked the connection necessary to constitute one course of conduct. There was no objectively discernible relationship between the two offenses. The reckless burning in no way facilitated the attempted burglary and vice versa. There were two separate and distinct criminal objectives--to burn the house and to burglarize the house. A shared motivation, to harass and vex the victim, does not convert the two courses of conduct into one.

State v. Edwards

45 Wn. App. 378, 725 P.2d 442 (1986) Division One

The defendant abducted a person in the victim's automobile (Second Degree Kidnapping). While they were in the car, he waved his gun at another person approaching the car (Second Degree Assault). The trial court considered each crime as part of the defendant's criminal history in sentencing him for the other crime. The defendant argued that the two charges were part of the same criminal conduct, and therefore one crime should not be considered as previous criminal history in sentencing for the other crime.

Under former RCW 9.94A.400(1)(a), the court determined that the actions encompassed the same criminal conduct. The crimes were intimately related; there was no substantial change in the nature of the criminal objective. The kidnapping was continuing and still in progress at the time the assault occurred. The assault was committed in furtherance of the kidnapping.

The test for same criminal conduct is objective and is not dependent upon the defendant's subjective intent. Two crimes are part of a single course of conduct if during that conduct there is no substantial change in the nature of the criminal objective. "One crime per person" analysis is specifically not adopted.

State v. Rienks

46 Wn. App. 537, 731 P.2d 1116 (1987) Division One

The defendant went to an apartment to collect a debt. After entering the apartment (First Degree Burglary), he shoved a pistol into one victim's face (First Degree Assault) and took some items from a second victim, the "debtor" (First Degree Robbery). A few days later, he returned to the apartment and shot a hole through the door (Second Degree Assault).

In sentencing the defendant for the First Degree Assault conviction, the court used the current offenses to calculate his offender score. The court determined that the burglary and robbery convictions encompassed the same criminal conduct, and collapsed those two offenses into one for purposes of computing criminal history. The Second Degree Assault conviction was counted in calculating his criminal history. The court imposed a 93-month sentence for the First Degree Assault conviction to run concurrently with the shorter sentences imposed for the three other convictions.

The defendant raised the issue of merger of the First Degree Assault and the robbery for the first time on appeal. Because there was no constitutional issue, the court would not consider it on appeal.

The three offenses occurring the same day encompass the same criminal conduct because they were committed as part of a recognizable scheme or plan and were committed with no substantial change in the nature of the criminal objective (robbing the "debtor"). The assault of the first victim was only committed to locate the robbery victim. There was no independent motive for the secondary crime; rather the objective was to accomplish or complete the primary one.

State v. Clark

46 Wn. App. 856, 732 P.2d 1029 (1987) Division One

The defendant, armed with a gun, approached three persons standing outside a car. He told the women to hand over their purses, and they did (two counts, First Degree Robbery). He told the man to hand over his wallet and when he did not, the defendant shot him (First Degree Assault).

The appellate court ruled all three crimes should have been considered part of the same conduct because there was no substantial change in the nature of this criminal objective.

State v. Boze

47 Wn. App. 477, 735 P.2d 696 (1987) Division Two

The defendant pleaded guilty to three counts of Unlawful Delivery of a Controlled Substance for three sales on three different dates in a one-month period to the same undercover police officer. On the first occasion, the defendant was armed with a handgun.

The court considered counts 1 and 2 as the defendant's criminal history and gave him an offender score of 4. This increased the standard range from 12+

to 14 months to 31 to 41 months if the first two counts had not been considered. The court sentenced the defendant to 31 months, with a 12-month enhancement for the deadly weapon.

The defendant argued the three sales should be considered the same criminal conduct and counted as one crime in calculating the offender score. The appellate court concluded the crimes did not encompass the same criminal conduct and the score was calculated properly.

Division Two adopts the analysis of State v. Edwards, 45 Wn. App. 378, 725 P.2d 422 (1986). Under that analysis, two offenses encompass the same criminal conduct if they are committed as part of an ordered or continuing sequence or under a recognizable scheme or plan with no substantial change in the nature of the criminal objective. In determining whether there is "no substantial change in criminal objective," one must consider whether there was an independent motive for the secondary crime or if the objective was to accomplish or complete the primary crime. See State v. Rienks, 46 Wn. App. 537, 731 P.2d 1116 (1987).

The three drug sales were separate crimes. Each sale was independently accomplished upon its own completion. They were random crimes, committed as the opportunities arose.

The defendant also argued it was error for the court to refuse to consider him for the first-time offender option without giving reasons for that refusal on the record. The court is not required to consider the defendant's rehabilitative potential on the record.

State v. Dunaway

109 Wn. 2d 207, ___ P.2d ___ (1987)

In separate prosecutions, defendant Dunaway was charged with First Degree Kidnapping and First Degree Robbery, and defendants Green and Franklin were charged with First Degree Robbery and Attempted First Degree Murder. After pleading guilty, defendant Dunaway was sentenced within the standard range. The Superior Court entered a judgment on a verdict of guilty and a sentence outside the standard range against defendant Green. The Superior Court entered a judgment on a verdict of guilty and a sentence within the standard range against defendant Franklin.

The Court of Appeals affirmed a Commissioner's ruling that sustained defendant Dunaway's sentence. The Supreme Court reversed the sentence of defendant Franklin at 46 Wn. App. 84 and of defendant Green at 46 Wn. App. 92, holding that certain crimes which the trial court treated as separate actually encompassed the same criminal conduct.

According to RCW 9.94A.400(1)(a), separate crimes encompassing the same criminal conduct are counted as a single crime in computing criminal history. However, different criminal conduct exists if the criminal intent changes from one crime to the next, viewing the conduct objectively and considering whether one crime furthered another and whether the time and place were the same. The intent behind robbery is to acquire property while the intent behind attempted murder is to kill someone.

Crimes against multiple victims will always be treated as separate crimes.
(State v. Edwards, 45 Wn. App. 378, was overruled insofar as it is inconsistent
on this point.)

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APPENDIX B:
MINIMUM TERM SETTING
FOR PRE-SRA CASES

This section briefly summarizes the provisions of Chapter 224, 1986 Laws, passed by the 1986 Legislature (codified in Chapter 9.25, RCW).

The Board of Prison Terms and Paroles is gradually being phased out of existence. It has been redesignated as the Indeterminate Sentence Review Board.

As part of this transition, the sentencing court will begin setting minimum terms on pre-SRA cases on July 1, 1986. As of that date, whenever the court commits a defendant to Department of Corrections for an offense committed before July 1, 1984, the court is to fix a minimum term at the time of the sentencing or revocation of probation.

RCW 9.95.011 provides:

When the court commits a convicted person to the Department of Corrections on or after July 1, 1986, for a crime committed before July 1, 1984, the court shall, at the time of sentencing or revocation of probation, fix the minimum term. The term so fixed shall not exceed the maximum sentence provided by law for the offense of which the person is convicted.

The court shall attempt to set the minimum term reasonably consistent with the purposes, standards, and sentencing ranges adopted under RCW 9.94A.040, but the court is subject to the same limitations as those placed on the board under RCW 9.92.090, 9.95.040(1) through (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The court's minimum term decision is subject to review to the same extent as a minimum term decision by the Parole Board before July 1, 1986.

Thereafter, the expiration of the minimum term set by the court minus any time credits earned under RCW 9.95.070 and 9.95.110 constitutes the parole eligibility review date, at which time the board may consider the convicted person for parole under RCW 9.95.100 and 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the board's authority to reduce or increase the minimum term, once set by the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080, 9.95.100, 9.95.115, or 9.95.125.

In re Myers, 105 Wn.2d 257, 714 P. 2d 303 (1986), is the most current directive from the Supreme Court with regard to the setting of minimum terms.

STEPS TO DETERMINE THE MINIMUM TERM

1. Calculate Sentence Range: Assume that the Sentencing Reform Act is in effect and calculate the sentencing range(s) for the current offense(s) for which the defendant is to be sentenced or have his/her probation revoked.

2. Deduct Time Served: All jail incarceration previously served solely in connection with the current case is credited against the maximum term and any minimum term. See State v. Phelan, 100 Wn.2d 508 (1983). Time served includes time in jail awaiting trial and sentencing and time ordered served in jail as a condition of probation. The trial court is responsible for determining time served, and the judgment must indicate such credit on its face. See In re Phelan, 97 Wn.2d 590 (1982). A defendant must also be credited with "nonjail" custodial confinement (e.g., commitment to Western State Hospital for sexual psychopathy treatment or commitment for mental health treatment). See In re Knapp, 102 Wn.2d 466 (1984).
3. Determine Adjusted Range.
4. Consider Whether Mandatory Minimums Apply: Finally, determine whether there are any limitations on the court in fixing the minimum term. The mandatory minimum terms are summarized below:
 - a. Armed with a Deadly Weapon during commission of offense: not less than five (5) years if no prior felony conviction and seven and one-half (7½) if previously convicted of a felony.
RCW 9.95.040(1) and (2)
 - b. Habitual Criminal: not less than fifteen (15) years; life maximum.
RCW 9.95.040(3)
 - c. Embezzling from institution of public deposit: not less than five (5) years.
RCW 9.95.040(4)
 - d. Rape in the First Degree: not less than three (3) years.
RCW 9A.44.045
 - e. Murder in the First Degree: not less than 20 consecutive years less earned good time (maximum -- life).
RCW 9A.32.040 and 9.95.115

Also see In re Hunter, 106 Wn. 2d 493 (1986).

5. If Necessary, Prepare Written Reasons for Departure: The SRA usually will not have been in effect when the defendant was originally charged and/or sentenced. Section 6(2) of Chapter 224, 1986 provides:

In making such decisions, the board and its successors shall consider the different charging and disposition practices under the indeterminate sentencing system.

If the decision is to impose a sentence outside the SRA range, adequate written reasons must be prepared (Section 6(2), Chapter 224, 1986). Also see In re Myers, 105 Wn. 2d 257, 714 P. 2d 303 (1986).

6. Concurrent versus Consecutive: For pre-SRA sentencing, concurrent versus consecutive law is governed by RCW 9.92.080; for SRA sentencing, concurrent versus consecutive law is governed by 9.94A.400.

OPTIONS AVAILABLE TO THE COURT

- A. The judge commits the offender to the Department of Corrections for the statutory maximum and sets the minimum term according to the SRA. The Indeterminate Sentence Review Board subsequently paroles and supervises the offender.
- B. The judge commits the offender to the Department of Corrections and sets the minimum term outside the SRA, providing written reasons. The Indeterminate Sentence Review Board subsequently paroles and supervises the offender.
- C. The judge continues the offender on probation.
- D. The judge imposes sanctions (up to a year in the county jail) and continues the offender on probation.

APPENDIX C:
CRIMINAL SENTENCING COURT RULES

CRIMINAL SENTENCING COURT RULES*

CrR 2.1 THE INDICTMENT AND THE INFORMATION

- (a) Use of Indictment or Information.
- (b) Nature and Contents.
- (c) Surplusage.
- (d) Bill of Particulars.
- (e) Amendment.
- (f) Defendant's Criminal History. Upon the filing of an indictment or information charging a felony, the prosecuting attorney shall request a copy of the defendant's criminal history, as defined in RCW 9.94A.030, from the Washington State Patrol Identification and Criminal History Section.

Comment

The purpose of section (f) is to ensure that the defendant's criminal history is available when and if the court is required to determine the validity of a plea agreement.

CrR 4.2 PLEAS

- (a) Types.
- (b) Multiple Offenses.
- (c) Pleading Insanity.
- (d) Voluntariness.
- (e) Agreements. If the defendant intends to plead guilty pursuant to an agreement with the prosecuting attorney, both the defendant and the prosecuting attorney shall, before the plea is entered, file with the court their understanding of the defendant's criminal history, as defined in RCW 9.94A.030. The nature of the agreement and the reasons for the agreement shall be made a part of the record at the time the plea is entered. The validity of the agreement under RCW 9.94A.090 may be determined at the same hearing at which the plea is accepted.
- (f) Withdrawal of Plea. The court shall allow a defendant to withdraw the defendant's plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court later determines under RCW 9.94A.090 that the agreement is not binding, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered.

* From Official Rules of Court, 1987-1988, State Law Reports Office

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty.

Superior Court of Washington
For () County

The State of Washington)	No. _____
Plaintiff,)	
v.)	Statement of
_____ ,)	Defendant on
Defendant)	Plea of Guilty

1. My true name is _____.

2. My age is _____.

3. I went through the _____ grade in school.

4. I have been informed and fully understand that I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is _____.

5. I have been informed and fully understand that I am charged with the crime of _____, that the elements of the crime are _____, the maximum sentence(s) for which is (are) _____ years and \$ _____ fine. The standard sentence range for the crime is at least _____ and not more than _____, based upon my criminal history which I understand the Prosecuting Attorney says to be: _____.

In addition, I may have to pay restitution, costs, assessments, and recoupment of expenses for defense services provided by the court.

I have been given a copy of the information.

6. I have been informed and fully understand that:

(a) I have the right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.

(b) I have the right to remain silent before and during trial, and I need not testify against myself.

(c) I have the right at trial to hear and question witnesses who testify against me.

(d) I have the right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me.

(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.

(f) I have the right to appeal a determination of guilt after a trial.

(g) If I plead guilty I give up the rights in statements 6(a)-(f).

7. I plead _____ to the crime of _____ as charged in the _____ information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. I have been informed and fully understand the Prosecuting Attorney will make the following recommendations to the court: _____

_____.

12. I have been informed and fully understand that the standard sentencing range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions or guilty pleas at juvenile court that are felonies and which were committed when I was fifteen years of age or older. Juvenile convictions count only if I was less than twenty-three years of age at the time I committed this present offense. I fully understand that if criminal history in addition to that listed in paragraph 5 is discovered, both the standard sentence range and the Prosecuting Attorney's recommendation may increase. Even so, I fully understand that my plea of guilty to this charge is binding upon me if accepted by the court, and I cannot change my mind if additional criminal history is discovered and the standard sentence range and Prosecuting Attorney's recommendation increases.

13. I have been informed and fully understand that the court does not have to follow anyone's recommendation as to sentence. I have been fully informed and fully understand that the court must impose a sentence within the standard sentence range unless the court finds substantial and compelling reasons not to do so. If the court goes outside the standard sentence range, either I or the state can appeal that sentence. If the sentence is within the standard sentence range, no one can appeal the sentence.

14. I understand that if I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

15. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime in the information. This is my statement: _____

_____.

16. I have read or have had read to me and fully understand all of the numbered sections above (1 through 15) and have received a copy of "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the court.

Defendant

Prosecuting Attorney

Defendant's Lawyer

The foregoing statement was read by or to the defendant and signed by the defendant in the presence of his or her attorney, and the undersigned Judge, in open court. The court finds the defendant's plea of guilty to be knowingly, intelligently and voluntarily made, that the court has informed the defendant of the nature of the charge and the consequences of the plea, that there is a factual basis for the plea, and that the defendant is guilty as charged.

Dated this _____ day of _____, 19 ____.

Judge

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19 ____.

Interpreter

(h) Verification by Interpreter. If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the written statement provided for in section (g) has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

Comment

Section (e) of the rule accommodates the requirements in RCW 9.94A.080, .090, and .100. The rule also makes it clear that it is unnecessary to hold separate hearings for determining the validity of the agreement and for accepting the guilty plea.

In Section (f) of the rule, a new sentence is added reflecting a similar provision in RCW 9.94A.090. It is desirable to repeat the statutory provision in the rule to avoid any implication that the "manifest injustice" test in the existing rule applies to the withdrawal of a plea entered pursuant to an agreement that is later found to be not binding under the statute.

The rule requires only that the court "inform" the defendant of the right to withdraw a guilty plea. The Commission concluded that the statutory provision requiring a formal "order" was unnecessary and will recommend that the statute be amended to conform to the proposed rule. It is assumed that if the defendant chooses to exercise the option of withdrawing the plea, the withdrawal will be confirmed by the entry of an order.

Regardless of whether the defendant is permitted to withdraw a guilty plea under the existing "manifest injustice" standard or the new statutory provision, the time for trial is extended under CrR 3.3(d)(7) to 90 days after the entry of the order confirming the withdrawal of the plea if the defendant is released, or 60 days if the defendant is to remain in custody pending trial.

Section (g), concerning the defendant's written statement, has been revised throughout to conform to the requirements of the new act.

Section (h) is the same as the corresponding paragraph in the prior rule.

RULE 7.1 PROCEDURES BEFORE SENTENCING

(a) Generally. At the time of, or within 3 days after, a plea, finding, or verdict of guilt of a felony, the court may order that a presentence investigation and report be prepared by the Department of Corrections. The court shall also then:

(1) Set a date, time, and place for sentencing in compliance with the time requirements of RCW 9.94A.110;

(2) Order the defendant to return at the designated date, time, and place; and

(3) Set a date at least 10 days before sentencing for delivery of the presentence report, if any, to the court, to the prosecuting attorney, and to the defendant or defense counsel.

(b) Report. The report of the presentence investigation shall contain the defendant's criminal history, as defined by RCW 9.94A.030, such information about the defendant's characteristics, the defendant's financial condition, and the circumstances affecting the defendant's behavior as may be relevant in imposing sentence or in the correctional treatment of the defendant, information about the victim, and such other information as may be required by the court.

(c) Notice of New Evidence. At least 3 days before the sentencing hearing, defense counsel and the prosecuting attorney shall notify opposing counsel and the court of any part of the presentence report that will be controverted by the production of evidence.

(d) Other Reports. Any interested person, as designated in RCW 9.94A.110, may submit a report separate from that furnished by the Department of Corrections.

Comment

The rule is designed to implement RCW 9.94A.110 and related statutes concerning the sentencing procedure. The entire rule is new; it replaces the prior CrR 7.2, Presentence Investigation, portions of which are incorporated into the new rule.

Section (a) is adapted from Minn. R. Crim. P. 27.03. The rule states that the court may order a presentence investigation and report, giving the court a measure of discretion to dispense with a report when the appropriate sentence can readily be determined on the basis of the sentencing guidelines score sheet. The rule codifies the existing practice of requiring the writer of the report to send copies to counsel and to the court.

Section (b) is substantially the same as the prior rule, CrR 7.2(b). The reference in the prior rule to the defendant's "prior criminal record" is replaced by a reference to the defendant's "criminal history" in order to parallel the statutory language.

The reference to "helpful" information is replaced by a reference to "relevant" information because much of what is "helpful" under the prior rule will become irrelevant under a system of presumptive sentencing.

Section (c) ensures that both parties will receive reasonable notice of any intent to controvert the presentence report by the production of new evidence. The combined effect of sections (a) (3) and (c) is that each party will have 7 days to examine the report before giving the required notice.

Section (d) makes it clear that persons who are permitted under RCW 9.94A.110 to present "argument" at sentencing may do so in writing.

Unlike the prior rule, CrR 7.2(c), the rule contains no provision concerning the nondisclosure of "harmful" portions of the presentence report. The Commission concluded that the provision was no longer necessary because much of what might be "harmful" under the prior rule will no longer be relevant under presumptive sentencing and will not be included in the report. If a report under the presumptive sentencing system does contain information that the court believes should be kept confidential, the court may fashion an appropriate remedy on a case-by-case basis.

RULE 7.2 SENTENCING

(a) Generally. The court shall state the precise terms of the sentence and shall assure that the record accurately reflects all time spent in custody in connection with the offense or behavioral incident for which sentence is imposed. Pending such action the court may release or commit the defendant, pursuant to Rule 3.2.

(b) Procedure at Time of Sentencing. The court shall, at the time of sentencing, advise the defendant:

- (1) of his right to appeal the conviction;
- (2) of the right to appeal a sentence outside the standard sentence range;
- (3) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived;
- (4) that the court clerk will, if requested by the defendant appearing without counsel, supply a notice of appeal form and file it upon completion by the defendant; and
- (5) of the right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal. These proceedings shall be made a part of the record.

(c) Record. A verbatim record of the sentencing proceedings shall be made.

(d) Judgment and Sentence. For every felony sentencing, the clerk of the court shall forward a copy of the judgment and sentence to the Sentencing Guidelines Commission. If the sentence imposed departs from the applicable standard sentence range, the court's written findings of fact and conclusions of law shall also be supplied to the Commission.

Comment

The prior rule, CrR 7.1, is adopted as CrR 7.2.

In section (a), the added language is suggested by Minn. R. Crim. P. 27.03. The deleted language addressed matters that are now covered in more detail in RCW 9.94A.110.

Section (b) is the same as the corresponding section in the prior rule, except that subsections (1) and (2) are modified to reflect the provisions of RCW 9.94A.210.

Section (c), concerning the withdrawal of a guilty plea, is deleted. In the existing rules, the point is covered in both CrR 4.2 and CrR 7.1. (See Rule 4.2.) The language of the two provisions differs, but they appear to be the same in substance. There is no apparent distinction between the two provisions in the cases that have

interpreted them. No loss of substance occurs when the provision in CrR 7.1 is deleted, leaving the point governed by CrR 4.2.

Section (c) is suggested by Minn. R. Crim. P. 27.03.

Section (d) is suggested by Minn. R. Crim. P. 27.03.

RULE 7.3 JUDGMENT

A judgment of conviction shall set forth whether defendant was represented by counsel or made a valid waiver of counsel, the plea, the verdict or findings, and the adjudication and sentence. The court may order that its sentence include special conditions or requirements, including a specified schedule for the payment of a fine, restitution, or other costs, or the performance of community service. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judgment shall be signed by the judge and entered by the clerk.

Comment

The rule codifies the existing practice allowing the court to impose special conditions on its sentence. The rule makes it clear and that special conditions, including a specified schedule, may likewise be imposed with respect to an order for community service, restitution, or costs. (See RCW 9.94A.200, referring to terms and conditions of restitution.)

The rule is, of course, subject to any statutory restrictions on the court's sentencing authority. For example, a statute requires that a sentence of confinement for more than 60 days must be served on consecutive days (RCW 9.94A.120). The rule would not permit the court to order that such a sentence be served on intermittent days.

RULE 18.15

ACCELERATED REVIEW OF ADULT SENTENCINGS.

(a) Generally. A sentence which is beyond the standard range may be reviewed in the manner provided in the rules for other decisions or by accelerated review as provided in this rule.

(b) Accelerated Review by Motion. After the notice of appeal has been filed, any party may seek accelerated sentence review and must do so by motion. The motion must include (1) the name of the party filing the motion; (2) the offense; (3) the disposition of the trial court; (4) the standard range for the offense; (5) a statement of the disposition urged by the moving party; (6) copies of the findings of fact, conclusions of law and judgment and sentence; (7) an argument for the relief sought with reference to that portion of RCW 9.94A.210(4) relied upon by the moving party.

(c) Service on Court Reporter or Clerk. A copy of the motion for accelerated review must be served upon the court reporter in attendance at the sentencing, or, in the case of electronic recording, upon the clerk of the superior court.

(d) Time for Hearing. The hearing will be conducted no later than 28 days following filing of the record required by RCW 9.94A.210(5). The court will notify the parties of the hearing date.

(e) Motion Procedure Controls. The motion procedure, including a party's response, is governed by Title 17.

(f) Accelerated Review of Other Issues. The decision of issues other than those relating to the sentence may be accelerated only pursuant to Rules 18.8 and 18.12.

1:D:SG5

APPENDIX D:
FELONY INDEX

FELONY INDEX

<u>(RCW) Statute</u>	<u>Offense</u>	<u>Seriousness Level</u>
9.02.010	Abortion	Unranked
29.36.110	Absentee Voting Violation	Unranked
9A.82.030	Advancing Money or Property for Extortionate Extension of Credit	V
9.05.020	Advocating Criminal Anarchy	Unranked
9.05.080	Advocating Sabotage	Unranked
10.95.020	Aggravated Murder 1	XIV
9.45.210	Altering Sample or Certificate of Assay	Unranked
46.12.220	Alteration or Forgery - Motor Vehicle Title	Unranked
9A.48.020	Arson 1	VIII
9A.48.030	Arson 2	IV
9A.36.010	Assault 1	XI
9A.36.020	Assault 2	IV
9A.36.030	Assault 3	III
9.05.030	Assembly of Anarchists	Unranked
72.23.170	Assist Escape of Mental Patient	Unranked
46.61.024	Attempting to Elude Pursuing Police Vehicle	I
9A.76.170	Bail Jump from Murder 1 Offense	Unranked
9A.76.170	Bail Jump From Class A Offense	Unranked
9A.76.170	Bail Jump From Class B Offense	Unranked
9A.76.170	Bail Jump From Class C Offense	Unranked
30.04.160	Bank or Trust Co. Borrow/Reloan or Rediscount	Unranked
30.12.090	Bank or Trust Co. /False Entry, Statements, Etc.	Unranked
30.12.100	Bank or Trust Co. /Destroy or Secrete Records	Unranked
30.04.140	Bank or Trust Co. Prohibited Pledging Securities	Unranked
30.44.120	Bank or Trust Co. Receiving Deposits When Insolvent	Unranked
9A.64.010	Bigamy	Unranked
9.61.160	Bomb Threat	Unranked
16.49A.360	Bribe Received by Meat Inspector	Unranked
9A.72.100	Bribe Received by Witness	IV
9A.68.010	Bribery	VI
9A.72.090	Bribing a Witness	IV
16.49A.360	Bribing Meat Inspector	Unranked

<u>(RCW)</u> <u>Statute</u>	<u>Offense</u>	<u>Seriousness</u> <u>Level</u>
72.23.300	Bringing Narcotics, Liquor, or Weapons into Institution or Grounds	Unranked
9.47.120	Bunco Steering	Unranked
9A.52.020	Burglary 1	VII
9A.52.030	Burglary 2	II
9.46.180	Causing Person to Violate Gambling Laws	Unranked
65.12.730	Certification of Land Registration Subject to Larceny	Unranked
9A.64.030	Child Selling or Buying	Unranked
30.12.110	Commission, Etc., for Procuring Loan	Unranked
9.68A.090	Communication with Minor for Immoral Purposes	III
9A.52.110	Computer Trespass I	II
32.04.110	Conceal or Destroy Evidence by Savings Bank	Unranked
69.50.____	Controlled Substances Homicide	Unranked
69.50.401 (b)(1)(i)	Create, Deliver, or Possess a Counterfeit Controlled Substance - Schedule I or II Narcotic (First Drug Conviction)	II
69.50.401 (b)(1)(i)	Create, Deliver, or Possess a Counterfeit Controlled Substance - Schedule I or II Narcotic (Subsequent Drug Conviction)	II
69.50.401 (b)(1)(ii-iv)	Create, Deliver or Possess a Counterfeit Controlled Substance - Schedule III-V Narcotic or Schedule I-V Nonnarcotic	II
9A.28.020	Criminal Attempt - Murder 1	75% of sentence
9A.28.020	Criminal Attempt - Class A Felony	of principal
9A.28.020	Criminal Attempt - Class B Felony	crime.
9A.28.040	Criminal Conspiracy - Murder 1	75% of sentence
9A.28.040	Criminal Conspiracy - Class A Felony	of principal
9A.28.040	Criminal Conspiracy - Class B Felony	crime.
9A.42.020	Criminal Mistreatment 1	V
9A.42.030	Criminal Mistreatment 2	III
9A.56.095	Criminal Possession of Leased or Rented Machinery, Etc.	Unranked
9A.28.030	Criminal Solicitation - Murder 1	75% of sentence
9A.28.030	Criminal Solicitation - Class A Felony	of principal
9A.28.030	Criminal Solicitation - Class B Felony	crime.
9A.36.____	Custodial Assault	Unranked
9A.40.060	Custodial Interference	Unranked

<u>(RCW)</u> <u>Statute</u>	<u>Offense</u>	<u>Seriousness</u> <u>Level</u>
70.74.280(1)	Damaging Building, Etc., by Explosion with Threat to Human Being	X
70.74.280(2)	Damaging Building, Etc., by Explosion with No Threat to Human Being	VI
9.68A.050	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct	VII
43.06.230	Destroy, Damage Property or Cause Person Injury after Emergency Proclaimed	Unranked
9.05.100	Displaying Emblems of Seditious or Anarchistic Group	Unranked
29.18.080	Duplication of Names - Conspiracy	Unranked
29.18.070	Duplication of, Use of Nonexistent or Untrue Names	Unranked
29.85.220	Election Officer Conniving with Unqualified Voter	Unranked
29.85.160	Election Officer Violation at Poll	Unranked
29.85.170	Election Officer General Violation	Unranked
29.85.200	Election Registration Under False name	Unranked
43.08.140	Embezzlement by State Treasurer	Unranked
70.74.270(1)	Endangering Life and Property by Explosives with Threat to Human Being	IX
70.74.270(2)	Endanger Life and Property by Explosives with No Threat to Human Being	VI
9.68.060	Erotic Material (3rd Offense)	Unranked
9A.76.110	Escape 1	IV
9A.76.120	Escape 2	III
70.74.180	Explosive Devices Prohibited	IX
9A.56.120	Extortion 1	V
9A.56.130	Extortion 2	III
9A.82.020	Extortionate Extension of Credit	V
9A.82.040	Extortionate Means to Collect Extensions of Credit	V
39.44.101	Facsimile Signatures on Bonds and Coupons	Unranked
10.19.130	Failure to Appear after Release on Recognizance	Unranked
42.24.100	False Claim from Municipal Corporation (Charged Perjury 2)	Unranked
9.24.050	False Report of Corporation	Unranked
46.12.210	False Statement or Illegal Transfer of Motor Vehicle Ownership	Unranked
29.85.180	False Swearing at Primary (Charged Perjury)	Unranked
65.12.740	False Swearing - Registration of Land Title (Charged Perjury)	Unranked
32.04.100	Falsify Savings Books, Etc.	Unranked

<u>(RCW)</u> <u>Statute</u>	<u>Offense</u>	<u>Seriousness</u> <u>Level</u>
33.36.040	Falsify Savings & Loan Association Books	Unranked
74.08.055	False Verification for Welfare	I
69.41.020	Forged Prescription (Legend Drug)	I
69.50.403	Forged Prescription for a Controlled Substance	I
9A.60.020	Forgery	I
65.12.760	Forgery of Registrar's Signature or Seal	Unranked
76.36.120	Forgery of Forest Product Mark	Unranked
29.85.140	Forgery on Nomination Papers (Charged Forgery)	Unranked
82.20.050	Forgery or Counterfeiting of Tax Stamp	Unranked
82.24.100	Forgery or Counterfeit Cigarette Tax Stamp	Unranked
29.85.100	Fraud in Certification of Nomination or Ballot	Unranked
9.45.160	Fraud in Liquor Warehouse Receipts	Unranked
9.45.124	Fraud in Measurement of Goods	Unranked
19.48.110	Fraud in Obtaining Accommodations	Unranked
9.45.240	Fraud in Obtaining Telephone or Telegraph Services	Unranked
67.24.010	Fraud in Sporting Contest	Unranked
9.91.090	Fraudulent Destruction of Insured Property	Unranked
65.12.750	Fraudulent Procurement or False Entry on Registration	Unranked
9.24.020	Fraudulent Issue of Stock, Etc.	Unranked
9.46.160	Gambling without License	Unranked
77.21.010	Game Violation - Second Conviction	Unranked
9A.46.020	Harassment	III
9A.76.200	Harming a Police Dog	Unranked
46.52.020(4)	Hit and Run--Injury Accident	IV
9.94.030	Holding Hostages or Interfering with Officer's Duty	Unranked
9A.32.____	Homicide by Abuse	XIII
48.30.190	Illegal Dealing in Premiums	Unranked
9.46.230	Illegal Gambling Device	Unranked
69.41.040	Illegal Issuance of Legend Drug Prescription	Unranked
9.16.020	Imitating Lawful Brands	Unranked
9A.64.020(1)	Incest 1	VI
9A.64.020(2)	Incest 2	V
9A.82.060 (1)(b)	Inciting Criminal Profiteering	IX
9A.44.100 (1)(a)	Indecent Liberties (with Forcible Compulsion)	VII

<u>(RCW) Statute</u>	<u>Offense</u>	<u>Seriousness Level</u>
9A.44.100 (1)(b,c,d)	Indecent Liberties (without Forcible Compulsion)	VI
9.45.126	Inducing Fraud in Measurement of Goods	Unranked
31.04.220	Industrial Loan Company Violation	Unranked
9A.82.070	Influencing Outcome of Sporting Event	IV
29.79.440	Initiative & Referendum - Violation	Unranked
40.16.010	Injury to a Public Record	Unranked
40.16.020	Injury to and Misappropriation of Public Record	Unranked
9.24.030	Insolvent Bank Receiving Deposit	Unranked
9.05.070	Interference with Owner's Control	Unranked
29.85.060	Intimidate, Influence or Bribe an Elector	Unranked
9A.72.160	Intimidating a Judge	VI
9A.72.130	Intimidating a Juror	VI
9A.76.180	Intimidating a Public Servant	III
9A.72.110	Intimidating a Witness	VI
9A.76.140	Introducing Contraband 1	VII
9A.76.150	Introducing Contraband 2	III
69.50.401(f)	Involve Minor in Drug Transaction	Unranked
9A.40.020	Kidnapping 1	X
9A.40.030	Kidnapping 2	V
9A.82.050(2)	Knowingly Trafficking in Stolen Property	IV
9A.82.060 (1)(a)	Leading Organized Crime	X
67.70.130	Lottery Fraud	Unranked
30.12.120	Loan to Officer or Employee from Trust Fund	Unranked
9.41.190	Machine Gun Possession Prohibited	Unranked
9.47.090	Maintaining Bucket Shop	Unranked
9.45.220	Making False Sample or Assay of Ore	Unranked
31.12.340	Making False Entry or Statement in Credit Union Books	Unranked
9A.36.080	Malicious Harassment	IV
9A.48.070	Malicious Mischief 1	II
9A.48.080	Malicious Mischief 2	I
9.62.010	Malicious Prosecution	Unranked
9A.32.060	Manslaughter 1	IX
9A.32.070	Manslaughter 2	VI
69.50.401 (a)(1)(i)	Manufacture, Deliver, or Possess with Intent to Deliver Narcotic from Schedule I and II (First Drug Conviction)	VI

<u>(RCW) Statute</u>	<u>Offense</u>	<u>Seriousness Level</u>
69.50.401 (a)(1)(i)	Manufacture, Deliver, or Possess with Intent to Deliver Narcotic from Schedule I or II (Subsequent Drug Conviction)	VI
69.50.401 (a)(1) (ii-iv)	Manufacture, Deliver, or Possess with Intent to Deliver Narcotics from Schedule III, IV, V or Nonnarcotics from Schedule I-V (Except Marijuana)	IV
69.50.401 (a)(1)(ii)	Manufacture, Deliver, or Possess with Intent to Deliver Marijuana	III
9.81.030	Member Subversive Organization	Unranked
42.20.070	Misappropriating and Falsifying Accounts by Public Officer	Unranked
42.20.090	Misappropriating and Falsifying Accounts by Treasurer	Unranked
9.82.030	Misprision of Treason	Unranked
9.45.070	Mock Auction	Unranked
9A.32.030	Murder 1	XIII
9A.32.050	Murder 2	XII
68.08.150	Mutilating or Disinterring Human Remains	Unranked
26.20.030	Nonsupport of Child Under 16	Unranked
69.50.403	Obtain a Controlled Substance by Fraud or Forged Prescription	I
19.48.110	Obtaining Accommodations by Fraud	Unranked
9A.60.030	Obtaining Signature by Deception or Duress	Unranked
40.16.030	Offering False Instrument for Filing or Record	Unranked
68.08.140	Opening Graves, Stealing Body or Receiving Same	Unranked
69.50.406	Over 18 and Deliver Narcotic from Schedule I or II to Someone Under 18	X
69.50.406	Over 18 and Deliver Narcotic from Schedule III, IV, or V or a Nonnarcotic from Schedule I-V to Someone Under 18 and 3 Years Junior	IX
9.46.230	Owning, Buying, Etc., Gambling Devices or Records	Unranked
9.68A.100	Patronizing a Juvenile Prostitute	III
9A.72.020	Perjury 1	V
9A.72.030	Perjury 2	III
69.40.030	Placing Poison or Other Harmful Object or Substance in Food, Drinks, Medicine or Water	Unranked
69.40.020	Poison in Milk or Food Product	Unranked
9.94.041	Possession of Controlled Substance by Prisoners	Unranked
9.94.045	Possession of Controlled Substance in Prison by Nonprisoner	Unranked

<u>(RCW)</u> <u>Statute</u>	<u>Offense</u>	<u>Seriousness</u> <u>Level</u>
69.50.401(d)	Possession of Controlled Substance that is a Narcotic from Schedule I or II	II
69.50.401(d)	Possession of Controlled Substance that is a Narcotic from Schedule III, IV, V or Nonnarcotic from Schedule I-V	I
9.05.110	Possession of Emblems Unlawful	Unranked
9.40.120	Possession of Incendiary Device	Unranked
9A.56.095	Possession of Leased Property	Unranked
9A.56.150	Possession of Stolen Property 1	II
9A.56.160	Possession of Stolen Property 2	I
9.94.040	Possession of Weapons by Prisoners	Unranked
9.94.043	Possession of Weapons in Prison by Nonprisoner	Unranked
33.36.030	Preference in Case of Insolvency - Savings Bank	Unranked
30.44.110	Preference Prohibited - Bank or Trust Co.	Unranked
9.02.020	Pregnant Woman Attempting Abortion	Unranked
9.94.020	Prison Riot	Unranked
9.46.220	Professional Gambling	Unranked
9.68.140	Promoting Pornography	Unranked
9A.88.070	Promoting Prostitution 1	VIII
9A.88.080	Promoting Prostitution 2	III
9A.36.060	Promoting a Suicide Attempt	Unranked
9A.44.040	Rape 1	X
9A.44.050	Rape 2	VIII
9A.44.060	Rape 3	V
29.82.170	Recall-Violation by Signer	Unranked
9A.68.030	Receiving or Granting Unlawful Compensation	Unranked
9A.48.040	Reckless Burning 1	I
9A.82.050(1)	Recklessly Trafficking in Stolen Property	III
68.08.145	Removing Human Remains	Unranked
9.16.010	Removing Lawful Brands	Unranked
9A.76.070	Rendering Criminal Assistance 1	V
9A.68.020	Requesting Unlawful Compensation	Unranked
9A.84.010	Riot	Unranked
9A.56.200	Robbery 1	IX
9A.56.210	Robbery 2	IV
9.05.060	Sabotage	Unranked

<u>(RCW)</u> <u>Statute</u>	<u>Offense</u>	<u>Seriousness</u> <u>Level</u>
69.41.030	Sale, Delivery or Possession With Intent to Deliver Legend Drug Without Prescription	Unranked
21.20.400	Securities Act Violation	Unranked
9.68A.060	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct	VII
69.50.410(2)	Selling for Profit Schedule I Controlled or Counterfeit Substance (except Heroin)	VI
69.50.410(3)	Selling Heroin for Profit	VIII
9.41.180	Setting Spring Gun	Unranked
9.68A.040 (2)(a)	Sexual Exploitation, Under 16	IX
9.68A.040 (2)(b)	Sexual Exploitation, Under 18	VII
9A.44.070	Statutory Rape 1	IX
9A.44.080	Statutory Rape 2	VII
9A.44.090	Statutory Rape 3	III
9.45.020	Substitution of Child	Unranked
9.81.110	Subversive Misstatements for Employment (Charged Perjury)	Unranked
9.81.020	Subversive Acts	Unranked
33.36.060	Suppress, Secrete or Destroy Evidence or Records	Unranked
9A.56.070	Taking Motor Vehicle Without Permission	I
9A.72.120	Tampering with a Witness	III
9A.56.080	Theft of Livestock 1	III
9A.56.080	Theft of Livestock 2	II
9A.56.030	Theft 1	II
9A.56.040	Theft 2	I
9A.36.090	Threats Against Governor or Family	Unranked
9A.68.040	Trading in Public Office	Unranked
9A.68.050	Trading in Special Influence	Unranked
32.24.080	Transfer Mutual Savings Bank Assets When Insolvent	Unranked
9.82.010	Treason	Unranked
39.62.040	Unauthorized Use Public Official Facsimile Signature or Seal	Unranked
21.20.030	Unlawful Acts of Investment Adviser	Unranked
21.20.020	Unlawful Acts of Person Advising Another	Unranked
69.____	Unlawful Fortification of Building for Drug Purposes	Unranked

<u>(RCW)</u> <u>Statute</u>	<u>Offense</u>	<u>Seriousness</u> <u>Level</u>
9A.56.060	Unlawful Issuance of Checks or Drafts	I
9A.40.040	Unlawful Imprisonment	III
21.20.010	Unlawful Offer, Sale or Purchase of Securities	Unranked
9.41.040	Unlawful Possession of a Short Firearm or Pistol	III
69.____	Unlawful Use of Building for Drug Purposes - Liability of Owner or Manager	Unranked
69.____	Unlawful Use of Fortified Building	Unranked
66.44.120	Unlawful Use of Liquor Board Seal (3rd Offense)	Unranked
29.85.240	Unqualified Person Voting	Unranked
9A.82.080 (1,2)	Use of Proceeds of Criminal Profiteering	IV
69.50.403	Utter False or Forged Prescription	I
9A.52.095	Vehicle Prowl 1	I
46.61.522	Vehicular Assault	IV
46.61.520	Vehicular Homicide	VII
69.41.020	Violation of Legend Drug Act - False Information	Unranked
29.85.260	Voting Machine - Tampering or Extra Keys	Unranked
48.30.220	Wilful Destruction, Injury, Secretion, Etc., of Insured Property	Unranked
72.66.060	Wilful Failure to Return from Furlough	IV
72.65.070	Wilful Failure to Return from Work Release	III
9.47.100	Written Statement Furnished of Sale	Unranked

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APPENDIX E:
CRIMINAL JUSTICE INFORMATION
ACT

- 10.98.140 Criminal justice information—Forecasting, felons, sentences.
- 10.98.150 Release of information on suspected or convicted felons.
- 10.98.160 Procedures, development considerations—Executive committee, review and recommendations.

10.98.010 Purpose. The purpose of this chapter is to provide a system of reporting and disseminating felony criminal justice information that provides: (1) Timely and accurate criminal histories for filing and sentencing under the sentencing reform act of 1981, (2) identification and tracking of felons, and (3) data for state-wide planning and forecasting of the felon population. [1984 c 17 § 1.]

10.98.020 Short title. This chapter may be known and cited as the criminal justice information act. [1984 c 17 § 2.]

10.98.030 Source of conviction histories. The Washington state patrol identification and criminal history section as established in RCW 43.43.700 shall be the primary source of felony conviction histories for filings, plea agreements, and sentencing on felony cases. [1984 c 17 § 3.]

10.98.040 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Arrest and fingerprint form" means the reporting form prescribed by the identification and criminal history section to initiate compiling arrest and identification information.

(2) "Chief law enforcement officer" includes the sheriff or director of public safety of a county, the chief of police of a city or town, and chief officers of other law enforcement agencies operating within the state.

(3) "Department" means the department of corrections.

(4) "Disposition" means the conclusion of a criminal proceeding at any stage it occurs in the criminal justice system. Disposition includes but is not limited to temporary or permanent outcomes such as charges dropped by police, charges not filed by the prosecuting attorney, deferred prosecution, defendant absconded, charges filed by the prosecuting attorney pending court findings such as not guilty, dismissed, guilty, or guilty—case appealed to higher court.

(5) "Disposition report" means the reporting form prescribed by the identification and criminal history section to report the legal procedures taken after completing an arrest and fingerprint form. The disposition report shall include but not be limited to the following types of information:

- (a) The type of disposition;
- (b) The statutory citation for the arrests;
- (c) The sentence structure if the defendant was convicted of a felony;
- (d) The state identification number; and
- (e) Identification information and other information that is prescribed by the identification and criminal history section.

Chapter 10.98 CRIMINAL JUSTICE INFORMATION ACT

Sections	
10.98.010	Purpose.
10.98.020	Short title.
10.98.030	Source of conviction histories.
10.98.040	Definitions.
10.98.050	Fingerprints, identifying data, and disposition reports from various officials.
10.98.060	Arrest and fingerprint form.
10.98.070	Participation in national crime information center interstate identification index.
10.98.080	State identification number, furnishing of.
10.98.090	Disposition forms—Coding.
10.98.100	Compliance audit of disposition reports.
10.98.110	Tracking of felony cases.
10.98.120	Reporting of admissions and releases by local jails—Plans and procedures.
10.98.130	Reporting of admissions and releases by local jails—Information required.

(6) "Fingerprints" means the fingerprints taken from arrested or charged persons under the procedures prescribed by the Washington state patrol identification and criminal history section.

(7) "Prosecuting attorney" means the public or private attorney prosecuting a criminal case.

(8) "Section" refers to the Washington state patrol section on identification and criminal history.

(9) "Sentence structure" means itemizing the components of the felony sentence. The sentence structure shall include but not be limited to the total or partial confinement sentenced, and whether the sentence is prison or jail, community supervision, fines, restitution, or community service. [1985 c 201 § 1; 1984 c 17 § 4.]

10.98.050 Fingerprints, identifying data, and disposition reports from various officials. (1) Except in the case of juveniles, it is the duty of the chief law enforcement officer or the local director of corrections to transmit within seventy-two hours from the time of arrest to the section fingerprints together with other identifying data as may be prescribed by the section, and statutory violations of any person lawfully arrested, fingerprinted, and photographed under RCW 43.43.735. The disposition report shall be transmitted to the prosecuting attorney.

(2) At the preliminary hearing or the arraignment of a felony case, the judge shall ensure that the felony defendants have been fingerprinted and an arrest and fingerprint form transmitted to the section. In cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the local director of corrections to initiate an arrest and fingerprint form and transmit it to the section. The disposition report shall be transmitted to the prosecuting attorney.

(3) The chief law enforcement officer of the jurisdiction shall initiate an arrest and fingerprint form for all juveniles who are fifteen years of age or older at the time the offense was committed and who are adjudicated of offenses that would be felonies if the juveniles were adults, and transmit the information within seventy-two hours to the section. The administrator of juvenile court services shall assist the chief law enforcement officer of the jurisdiction in developing procedures for obtaining the identification and disposition information required in this subsection, and the procedures shall be subject to the approval of the juvenile court judge. The juvenile information section of the administrator for the courts may assist the juvenile court with providing the section arrest and fingerprint forms, other identification, or other criminal history information. [1985 c 201 § 2; 1984 c 17 § 5.]

10.98.060 Arrest and fingerprint form. The arrest and fingerprint form shall include but not be limited to the following:

(1) Unique numbers associated with the arrest charges. The unique numbering system may be controlled by the local law enforcement agency, however the section shall approve of the numbering system and maintain a current catalog of approved local numbering

systems. The purpose of the unique numbering system is to allow tracking of arrest charges through disposition;

(2) An organization code;

(3) Date of arrest;

(4) Local identification number;

(5) The prescribed fingerprints;

(6) Individual identification information and other information prescribed by the section. [1984 c 17 § 6.]

10.98.070 Participation in national crime information center interstate identification index. The section shall be the sole recipient of arrest and fingerprint forms described in RCW 10.98.060, fingerprint forms described in RCW 43.43.760, and disposition reports for forwarding to the federal bureau of investigation as required for participation in the national crime information center interstate identification index. The section shall comply with national crime information center interstate identification index regulations to maintain availability of out-of-state criminal history information. [1984 c 17 § 7.]

10.98.080 State identification number, furnishing of. The section shall promptly furnish a state identification number to the originating agency and to the prosecuting attorney who received a copy of the arrest and fingerprint form. In the case of juvenile felony-like adjudications, the section shall furnish, upon request, the state identification number to the juvenile information section of the administrator for the courts. [1985 c 201 § 3; 1984 c 17 § 8.]

10.98.090 Disposition forms—Coding. (1) In all cases where an arrest and fingerprint form is transmitted to the section, the originating agency shall code the form indicating which agency is initially responsible for reporting the disposition to the section. Coding shall include but not be limited to the prosecuting attorney, district court, municipal court, or the originating agency.

(2) In the case of a superior court or felony disposition, the prosecuting attorney shall promptly transmit the completed disposition form to the section. In the case of a felony conviction, the prosecuting attorney shall attach a copy of the judgment and sentence form to the disposition form transmitted to the section. In the case of a lower court disposition, the district or municipal court shall promptly transmit the completed disposition form to the section. For all other dispositions the originating agency shall promptly transmit the completed disposition form to the section.

(3) Until October 1, 1985, the prosecuting attorney, upon a felony conviction, shall also forward a copy of the judgment and sentence form to the department. [1985 c 201 § 4; 1984 c 17 § 9.]

10.98.100 Compliance audit of disposition reports. The section shall administer a compliance audit at least once annually for each prosecuting attorney, district and municipal court, and originating agency to ensure that all disposition reports have been received and added to the criminal offender record information described in

RCW 43.43.705. The section shall prepare listings of all arrests charged and listed in the criminal offender record information for which no disposition report has been received and which has been outstanding for more than nine months since the date of arrest. Each prosecuting attorney, district and municipal court, and originating agency shall be furnished a list of outstanding disposition reports. Cases pending prosecution shall be considered outstanding dispositions in the compliance audit. Within forty-five days, the prosecuting attorney, district and municipal court, and originating agency shall provide the section with a current disposition report for each outstanding disposition. The section shall assist prosecuting attorneys with the compliance audit by cross-checking outstanding cases with the administrator for the courts and the department of corrections. The section may provide technical assistance to prosecuting attorneys, district or municipal courts, or originating agencies for their compliance audits. The results of compliance audits shall be published annually and distributed to legislative committees dealing with criminal justice issues, the office of financial management, and criminal justice agencies and associations. [1985 c 201 § 5; 1984 c 17 § 10.]

10.98.110 Tracking of felony cases. (1) The department shall maintain records to track felony cases following convictions in Washington state and felony cases under the jurisdiction of Washington state pursuant to interstate compact agreements.

(2) Tracking shall begin at the time the department receives a disposition form from a prosecuting attorney and shall include the collection and updating of felons' criminal records from conviction through completion of sentence.

(3) The department of corrections shall collect information for tracking felons from its offices and from information provided by county clerks, the Washington state patrol identification and criminal history section, the corrections standards board, and any other public or private agency that provides services to help individuals complete their felony sentences. [1984 c 17 § 11.]

10.98.120 Reporting of admissions and releases by local jails—Plans and procedures. The corrections standards board shall establish plans and procedures for prompt reporting by local jails to the corrections standards board of the admission and release of all individuals. The plans and procedures for local jails reporting to the corrections standards board shall be completed by June 30, 1985. [1984 c 17 § 12.]

10.98.130 Reporting of admissions and releases by local jails—Information required. Local jails shall report to the corrections standards board and the corrections standards board shall transmit to the department the information on all persons convicted of felonies or incarcerated for noncompliance with a felony sentence who are admitted or released from the jails and shall promptly respond to requests of the department for such data. Information transmitted shall include but not be

limited to the state identification number, whether the reason for admission to jail was a felony conviction or noncompliance with a felony sentence, and the dates of the admission and release. [1984 c 17 § 13.]

10.98.140 Criminal justice information—Forecasting, felons, sentences. (1) The section, the department, and the corrections standards board shall be the primary sources of information for criminal justice forecasting. The information maintained by these agencies shall be complete, accurate, and sufficiently timely to support state criminal justice forecasting.

(2) The office of financial management shall be the official state agency for the sentenced felon jail forecast. This forecast shall provide at least a six-year projection and shall be published by December 1 of every even-numbered year beginning with 1986. The office of financial management shall seek advice regarding the assumptions in the forecast from criminal justice agencies and associations.

(3) The sentencing guidelines commission shall keep records on all sentencings above or below the standard range defined by chapter 9.94A RCW. As a minimum, the records shall include the name of the offender, the crimes for which the offender was sentenced, the name and county of the sentencing judge, and the deviation from the standard range. Such records shall be made available to public officials upon request. [1985 c 201 § 6; 1984 c 17 § 14.]

10.98.150 Release of information on suspected or convicted felons. The section and the department shall provide prompt responses to the requests of law enforcement agencies and jails regarding the status of suspected or convicted felons. Dissemination of individual identities, criminal histories, or the whereabouts of a suspected or convicted felon shall be in accordance with chapter 10.97 RCW, the Washington state criminal records privacy act. [1984 c 17 § 15.]

10.98.160 Procedures, development considerations—Executive committee, review and recommendations. In the development and modification of the procedures, definitions, and reporting capabilities of the section, the department, and the corrections standards board, the responsible agencies and persons shall consider the needs of other criminal justice agencies such as the administrator for the courts, local law enforcement agencies, jailers, the sentencing guidelines commission, the board of prison terms and paroles, the clemency board, prosecuting attorneys, and affected state agencies such as the office of financial management and legislative committees dealing with criminal justice issues. An executive committee appointed by the heads of the department, the Washington state patrol, the corrections standards board, and the office of financial management shall review and provide recommendations for development and modification of the section, the department, and the corrections standards board's felony criminal information systems. [1984 c 17 § 16.]