

Sex Offender Sentencing
Sentencing Guidelines Commission
2004

STATE OF WASHINGTON



SENTENCING GUIDELINES COMMISSION

State of Washington

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Executive Summary

In response to two legislative mandates, the Sentencing Guidelines Commission reviewed existing sex offender sentencing laws and practices and solicited public comment on recent amendments to the law governing the Special Sex Offender Sentencing Alternative (SSOSA). The Commission found the following:

- Nationally, according to the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, the number of substantiated cases of sexual abuse of children declined 40% from 1992 to 2000. Victim-reported sex offenses involving children declined by 56%.
- In Washington, sex offenses account for a small percentage of felony sentences entered annually. During fiscal year 2003, of the 27,213 felony sentences imposed in the state, 1,403 involved sex offenses.
- On average sex offenders serve longer terms in prison and jail than persons convicted of other felony offenses. In fiscal year 2003, the average sentence length for all felonies was 37.3 months, compared to 90.8 months for sex offenses.
- Sex offenders re-offend at lower rates than those convicted of other felonies. After five years, 15% of sex offenders return to prison for new offenses compared to 43% of offenders convicted of property crimes
- The Special Sex Offender Sentencing Alternative is selectively used. In FY 03, of the 857 offenders eligible for the alternative, only 207 received SSOSA sentences.
- SSOSA victims and criminal justice professionals appearing at public hearings generally supported the recent amendments to the statute, especially provisions authorizing longer periods of confinement.

Sex Offender Sentencing

I. Introduction

The Legislature amended several sections of the Sentencing Reform Act during the 2004 session that resulted in enhanced sentences for persons convicted of sex offenses against children and in modifications to the Special Sex Offender Sentencing Alternative (SSOSA). Two amendments mandated that the Sentencing Guidelines Commission review and evaluate the sentencing of sex offenders. Specifically, in ESHB 2459, the Legislature required the Commission to review the “use, effectiveness, and cost effectiveness of sex offender sentencing.” As part of the review, the Commission was asked to “include an analysis of whether current sex offense sentencing ranges and standards, as well as existing mandatory minimum sentences, existing sentence enhancements, and the special sex offender sentencing alternative, are consistent with the purposes of the sentencing reform act” and the community protection act.

Additionally, in ESHB 2400, the Legislature imposed changes to the SSOSA aimed at providing appropriate levels of punishment for crimes covered by the sentencing alternative and improving the overall effectiveness of the act. As part of that legislation, the Legislature directed the Commission to review the amendments and determine whether the amendments will promote the Legislature’s intent.¹ The Commission was asked to review the:

- Eligibility criteria for the sentencing alternative, including whether the commission of certain types of offenses and involvement of multiple victims should render an offender ineligible and whether the alternative should be limited to offenses within families;
- Minimum terms of incarceration, including imprisonment at a state prison;
- Appropriate conditions or restrictions that should be placed on offenders who receive the alternative; and
- Standards for revocation of the sentence.

As part of the review and evaluation, the Commission was ordered to consult with criminal justice professionals and participants including the Superior Court Judges' Association, county prosecuting attorneys, criminal defense lawyers, local sheriffs and police chiefs, treatment providers, crime victims groups, other interested organizations and the Washington State Institute for Public Policy.²

The Commission was further directed to conduct public hearings and elicit comments and concerns from victims, families, advocates, and others. Public comments are required to be included in the Commission’s report to the Legislature.

¹ The legislature’s intent in enacting ESHB 2400 was set forth in section one of the legislation. Due, however, to a concern that portions of the language in that section could inadvertently increase the state’s tort liability, the governor vetoed section one. While mindful of the veto, the Commission notes the legislature’s concern about appropriate penalties for persons convicted of sex offenses against children.

² Due to the nature of the work involved, the Commission does not anticipate receiving the Washington State Institute for Public Policy’s evaluation until after this report is distributed.

In response to these mandates, the Commission solicited and reviewed written and electronically transmitted comments from state citizens. During June 2004, the Commission also held public hearings in seven locations around the state -- Bellingham, Lynnwood, Seattle, Spokane, Tacoma, Vancouver, and Yakima.

II. Review of Sex Offender Sentencing Data and Law

A. Sex Offender Sentencing Data

The Commission reviewed existing felony sentencing data and determined that sex offenses account for a small percentage of felony sentences entered annually. Sex offenders, however, serve longer terms in prison and jail than persons convicted of other felony offenses. As the table below demonstrates, during fiscal year 2003, of the 27,213 sentences imposed in the state, 1,403 involved sex offenses. Similarly, during fiscal year 2002, of the nine primary offense groups used for analysis of the state and federal criminal justice systems,³ except for manslaughter and murder, sex offenses comprised the smallest group of offenses entered into the Commission's database. While the average sentence length for all felonies was 37.3 months in fiscal year 2003, the average length of sentences for sex offenses was substantially higher at 90.8 months. The sentence length for sex offenders was higher than any other offense group except murder.

**Table 1. Fiscal Year 2003
Average Sentence Length by Forecasting Crime Type**

Forecasting Category	PRISON SENTENCE Number	PRISON SENTENCE Months	JAIL SENTENCE Number	JAIL SENTENCE Months	OTHER SENTENCE Number
Murder 1	34	441.7	0	n.a.	0
Murder 1*	1	Death	0	n.a.	0
Murder 1**	14	Life	0	n.a.	0
Murder 2	63	204.9	1	2.5	0
Manslaughter	104	67.6	7	10.7	0
Manslaughter**	1	Life	0	n.a.	0
Sex	560	90.8	794	3.9	43
Sex**	6	Life	0	n.a.	0
Robbery	426	53.2	156	5.7	0
Robbery**	6	Life	0	n.a.	0
Assault	1566	36.6	2666	4.2	83
Assault**	3	Life	0	n.a.	0
Property	2711	25.1	6578	2.7	563
Drug	2801	29.4	5792	2.5	302
Other	518	22.4	1372	3.2	42
TOTAL	8814	37.3	17366	3.0	1033

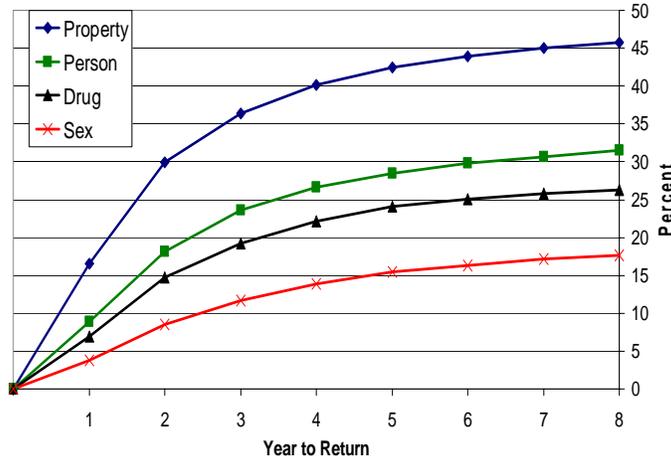
* Death sentence.
** Life sentence.

According to data supplied to the Commission by the Department of Corrections, recidivism rates among sex offenders are lower than the rates of other offenders. Five years after release from prison, 15% of sex offenders return to prison for new offenses compared to

³ The nine offense groups are Assault, Burglary, Drug Offenses, Manslaughter, Murder, Property Offenses, Robbery, Sex Offenses and Other offenses.

43% of offenders convicted of property crimes. The following chart compares recidivism rates among offenders convicted of crimes against persons, property, drug and sex offenses.

Recidivism Among Sex Offenders



As further background for it’s evaluation the Commission also reviewed reports and results of studies on state and national trends in sex offender sentencing. Contrary to often stated concerns about increases in sexual abuse of children, the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention reports that the number of substantiated cases declined 40% from 1992 to 2000.⁴ Victim-reported sex offenses involving children declined by 56% during the period between 1993 and 2000. During approximately the same period in Washington, the number of reported forcible rape crimes declined by 30%. During 2002 and 2003, for reasons that are not apparent, the number of reported rapes in the state did increase by 3.9%.

B. Existing Sex Offender Sentencing Law

1. Standard Sentence Range

Sex offenders, depending on the facts and circumstances leading to conviction, are subject to being sentenced through a number of different means. Most offenders, including sex offenders are sentenced within the standard range as prescribed in the sentencing grid. (See RCW 9.94A.510) The ranges in the sentencing grid are expressed in terms of months of total confinement. A term of confinement of one year and one day (12+) is to be served in a state facility or institution. Confinement terms of one year or less are generally served in county jails. Offenders who commit certain sex offenses are required to serve the sentence in a state facility even if the term of confinement is for one year or less.⁵ A court may convert total confinement sentences to partial confinement or community service for some offenders.

⁴ David Finkelhor and Lisa M. Jones, *Explanation for Decline in Child Sexual Abuse Cases*, OJJDP Juvenile Justice Bulletin, January 2004.

⁵ Offenders sentenced pursuant to RCW 9.94A.712 must be confined in state prison.

During fiscal year 2003, state courts imposed the standard range sentence in 1,186 out of the total 1,403 sex offense sentences.

2. “Determinate Plus” Non-Persistent Sex Offender Sentences

During the 2001 Second Special Session, the Legislature enacted 3ESSB 6151 – The Management of Sex Offenders in the Civil Commitment and Criminal Justice Systems. Essentially, any offender, who is not a persistent offender, who is sentenced for any one of the offenses enumerated in RCW 9.94A.712(1)(a)(i) or (ii), or an attempt to commit any of those offenses, or is convicted of any sex offense, except failure to register, and has a prior conviction for a “two-strike” offense under RCW 9.94A.030(32)(b), must receive an indeterminate sentence.

Under this section of the code, certain sex offenders must receive a minimum term of imprisonment equal to the standard range, according to the seriousness level of the offense and the offender score. The court must also impose an indeterminate maximum term of confinement equal to the statutory maximum sentence for the offense. Class A offenses, serious felonies, carry a statutory maximum term of life. Generally, offenders sentenced under this provision are eligible for earned release and are given the opportunity to receive sex offender treatment while incarcerated. Once released from prison, these offenders are supervised in the community until expiration of the statutory maximum term of the sentence. In cases involving serious sex offenses, community supervision lasts for life.

Two hundred fifteen determinate plus sentences were entered in fiscal year 2003. Of that number, 181 sentences involved offenders who upon release will be supervised in the community for life.

3. Two Strikes – Life Sentence for Persistent Sex Offenders

The definition of persistent offender includes “Two Strike” sex offenders. To qualify as a persistent sex offender, an offender must have two separate convictions of specified sex offenses. The specific offenses qualifying as “Two Strikes” are enumerated in RCW 9.94A.030(32)(b) and include: a) Rape First Degree, Rape Second Degree, Indecent Liberties by Forcible Compulsion, Rape of a Child First Degree (where the offender was age 16 or older at the time of the offense) Rape of a Child Second Degree (where the offender was 18 or older at the time the offense), Child Molestation in the First Degree; or b) Murder First Degree, Murder Second Degree, Kidnapping First Degree, Kidnapping Second Degree, Assault First Degree, Assault Second Degree, Burglary First Degree, Homicide by Abuse or Assault of a Child in the First Degree with a finding of sexual motivation; or c) an attempt to commit any of the crimes listed above. An offender convicted of one of these offenses, who has at least one previous conviction for one of these offenses, must be sentenced to life in prison without the possibility of release.

The number of sentences imposed under this option is very small and appears to be declining. During FY 03 only three offenders were sentenced under “two-strikes.” Ten sex

offenders were sentenced to life in prison under the “two-strike” provision in FY 02 and nine sentences were entered in FY 01.

4. Current Special Sex Offender Sentencing Alternative (SSOSA)

The most publicly visible sentencing alternative for sex offenders is the Special Sex Offender Sentencing Alternative (SSOSA). This sentencing option requires that offenders serve a term of confinement followed or accompanied by sex offender treatment within the community. SSOSA, in its current application, provides for a suspended sentence that may include a jail term of up to six months and required outpatient or inpatient treatment (RCW 9.94A.670). Offenders sentenced under this alternative are not eligible to accrue earned release time while serving the suspended sentence. SSOSA requires that examinations and treatment may only be conducted by sex offender treatment providers certified by the Department of Health, unless the offender leaves the state for reasons other than for certification, or if there are no certified providers available within a reasonable distance from the offender's residence.

To be eligible for the SSOSA option as presently written, offenders must:

- Not be convicted of a serious violent offense with a sexual motivation finding, or of Rape in the First Degree, or of Attempted Rape in the First Degree or of Rape in the Second Degree.
- Be convicted of a violation of RCW 9A.44, Incest (RCW 9A.64.020), Communication with a Minor for Immoral Purposes (RCW 9.68A.090) or an offense with a finding of sexual motivation.
- Have had no prior convictions for sex offenses in this or any other state.
- Have a current offense and criminal history that permits the court to impose a sentence within the standard range of less than 11 years of confinement.

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. The examination report must include the following:

- The defendant's version of the facts and the official version of the facts;
- The defendant's offense history;
- An assessment of problems in addition to the alleged deviant behavior;
- The defendant's social and employment situation; and
- Other evaluation measures used.

The examiner must assess the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan must be provided and must include, at a minimum:

- Frequency and type of contact between offender and therapist;

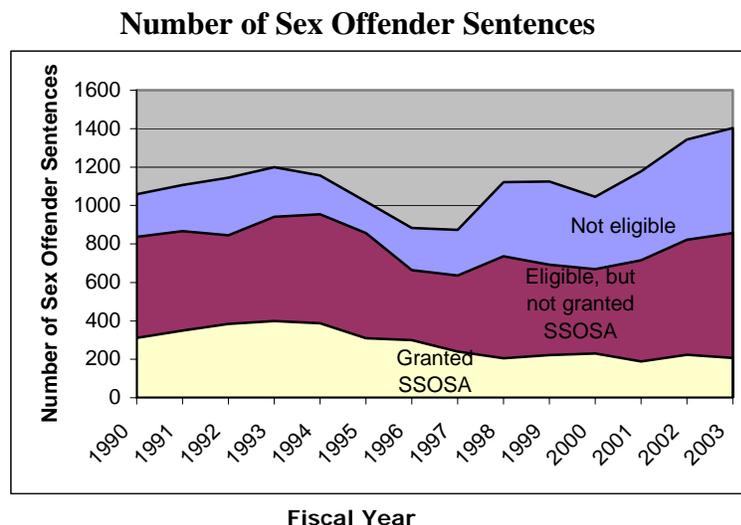
- Specific issues to be addressed in the treatment and description of planned treatment modalities;
- Monitoring plans, including any requirements regarding living conditions, lifestyle requirements and monitoring by family members and others;
- Anticipated length of treatment; and
- Recommended crime-related prohibitions.

Once the examination report is received, the court must determine whether the defendant and the community will benefit from use of this special sentencing alternative. The court must also consider the victim's opinion regarding whether the offender should receive a treatment sentence.

If a court decides to exercise the SSOSA option, it must impose a sentence within the standard sentence range, suspend execution of the sentence and order the defendant to spend up to six months in confinement (not to exceed the standard range of confinement for that offense). The court is required to order treatment during the suspended sentence for a period up to three years and may order outpatient or inpatient treatment.

Contrary to commonly held views, sentencing pursuant to SSOSA is sparingly approved. The number of offenders receiving Special Sex Offender Sentencing Alternative decreased from 224 in FY 02 to 207 in FY 03, a decrease of 7.6%. There were 188 SSOSA sentences in FY 01 down from 231 in FY 00.

The following chart compares the number of offenders eligible for SSOSA sentences with the number who actually received the sentence.



5. Other Sex Offender Treatment in Prison

Inpatient sex offender treatment is available for some incarcerated sex offenders through the Sex Offender Treatment Program (SOTP) administered by the Department of Corrections.⁶ The program is not a sentencing option; offenders are admitted at the discretion of the Department of Corrections rather than by court order. Services are delivered as part of a comprehensive strategy to enhance community safety and hold offenders accountable for their conduct. SOTP provides in custody treatment to as many as 200 sex offenders and an additional 200-250 in the community. In addition to volunteering to attend the SOTP and agreeing to follow the rules and expectations of treatment, offenders must meet the following criteria for admission into the program.

- The offender must have a conviction for a sexual offense.
- The offender must be eligible for release from incarceration at some point in the future.
- The offender must acknowledge having committed a sexual offense and have a belief that treatment will reduce a risk to sexually reoffend.

Additionally, eligible offenders undergo a risk assessment based upon validated actuarial risk measures. Offenders with higher risk to sexually reoffend are given priority over lower risk offenders. Offenders generally enter treatment during the last 18 months of their incarceration term. All offenders accepted into SOTP are expected to continue receiving treatment in the community upon release for up to three years. No authority exists for converting confinement time to community supervision for offenders who successfully complete the program.

C. ESHB 2400 Amendments to SSOSA

The 2004 amendments to the SSOSA, which will become effective in July 2005, do not change the operation of this sentencing alternative. The amendments do limit the use of the alternative, strengthen the sanctions and enhance the treatment requirements.

The changes to SSOSA include the following:

- Additional Eligibility Requirements ---
 - Offender has no prior adult convictions for a violent offense committed within five years of the current offense;
 - Offense did not result in substantial bodily harm to the victim;
 - Offender is not a stranger to the victim (*Offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the crime*).
- Additional considerations by the court

⁶ This summary was provided by Anmarie Aylward, Director SOTP, Department of Corrections.

- Consider whether the alternative is too lenient in light of the extent and circumstances of the offense;
 - Consider whether the offender has victims in addition to the victim of the offense;
 - Consider whether the offender poses a risk to the community, the victim, or to persons of similar age and circumstances;
 - Give great weight to the victim’s opinion regarding whether the offender should receive the alternative;⁷
 - Give no weight to the offender’s admission of the offense unless the admission is accompanied by other factors showing amenability to treatment.
- Additional terms of sentence
 - Confinement term increased from 6 months to up to 12 months confinement or the maximum term within the standard range, whichever is less;
 - Confinement longer than 12 months with aggravating circumstances;
 - All or part of confinement term may be served in partial confinement;
 - Offenders not eligible for earned release;
 - Treatment term increased from 3 to 5 years.

In the interest of objectivity, the 2004 amendments to SSOSA also included new safeguards on treatment providers. Section 4 of the legislation provides that, “the offender's sex offender treatment provider may not be the same person [who performed the evaluation of the offender] or any person who employs, is employed by, or shares profits with the person who examined the offender ... unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical.”

III. Public Comments

During the seven public hearings, the Commission heard comments and concerns on almost every aspect of sex offenders and offenses. Persons who made written and oral presentations to the Commission included victims (teenagers and seniors), parents and family members of victims, professional victims’ advocates, victim treatment providers, legislators, judges, city and county officials, law enforcement officers, prosecutors, defense counsel, community custody/supervision officers, sex offender treatment evaluators and treatment providers, sex offender family members, proponents of a citizen’s initiative aimed at enhanced punishment, students, educators and members of the general public who attended the meeting to learn about the issues. In two locations, Seattle and Vancouver, the Commission staff spoke with convicted sex offenders and their supporters.

The topics introduced by persons who attended meetings included: (a.) SOSSA – frequency of use of the alternative, eligibility criteria, terms of confinement, work release, treatment

⁷ Washington’s Administrative Code at section 246-930-330, though unchanged by the ESHB2400, also requires that the needs and safety of victims be included in treatment and supervision plans.

requirements/providers, notification of victims by officials, differences based upon financial resources of offenders, juvenile offenders, recidivism; (b.) Non-SSOSA Sex Offender Sentences; (c.) Plea Bargaining/Discretion; (d.) Community Supervision/Treatment; (d.) Victims and (e.) General Concerns.

A. SSOSA Sentencing

The overriding expressions of opinion about the SSOSA were favorable. Several people testified that the SSOSA program works because of the treatment that it provides and the fact that it often spares young victims of the necessity of painful public testimony about the abuse. Many urged that the system works as currently constituted and should not be changed.

1. Eligibility

The Commission did hear from persons who believed that while the SSOSA is useful, it should only be used when all other alternatives have been exhausted and should never be used for repeat offenders. In several locations, some speakers suggested changes, which would prohibit the use of SSOSA except in cases where a guilty plea is entered. *Alford* pleas would not be sufficient. Several speakers argued against using the alternative in cases where there are multiple victims or there is a long history of previously unreported abuse against one victim. Others urged that the eligibility requirements be changed to require the offender to identify all victims, even those not involved in the current offense.

In almost every location, citizens expressed concern about apparent disparities in the issuance of SSOSA sentences; particularly decisions seemingly entered on the basis of wealth, victim's gender, and familial relationship with victims. Income should not be a prerequisite for participation in the program. The community would benefit from the availability of programs for all offenders amenable to treatment. The legislature should examine means of providing funding for treatment. Corrections professionals suggested that an objective risk assessment tool should be used to determine SSOSA eligibility. One or two speakers asked that SSOSA not be used unless the victim gave prior approval.

2. SSOSA Penalties

Several people testified that, treatment aside, SSOSA penalties are too lenient especially in light of what is often a lifetime of damage suffered by victims. Members of the general public spoke about the apparent irony of providing the opportunity for leniency to an offender based on a family relationship, when that relationship compounds the impact of victimization. Many testified about a lack of understanding of the reasoning and a lack of support for linking the age of the victim to the penalty. A victim's age does not diminish the harm.

3. Supervision Conditions/Revocation

There seems to have been universal agreement among the individuals appearing before the Commission that one of the more favorable elements of SSOSA is the requirement that

offenders pay restitution. That condition of probation should continue even in those instances where work release from confinement must be granted in order for the offender to meet financial obligations. Most believed that offenders should give payment of financial obligations to the victim priority over payments for treatment.

Criminal justice professionals, while acknowledging the need for individualized offender treatment, argued that there is a need for standardization of restrictions and conditions of release. Many conditions should be imposed for all offenders. There should also be more consistency in the revocation proceedings. Community corrections officers expressed concern that due to the lack of standardization, the more sophisticated offender can affect conditions of probation by relocating.

4. Juveniles/SSODA

There were very few views presented during the hearings concerning juvenile sex offender sentencing options. The Commission did hear the concern of juvenile justice professionals about the low level of participation. Young offenders apparently avoid the Special Sex Offender Disposition Alternative (SSODA) due to the belief that the program is too rigorous. Professionals urge the creation of procedures that provide incentives to increase participation in the SSODA program.

B. Non-SSOSA Sex Offender Sentences

Public comments about non-SSOSA sentences covered a variety of subjects, usually based upon individual cases. Proponents of an unsuccessful initiative appeared at several meetings and urged the Commission to support the proposition that public safety would be better served by sentencing certain serious sex offenders to life without parole for one offense and that child molesters should get life without parole. This group expressed a degree of consternation that a child abuser could be sentenced to six months in the county jail while a goeyduck poacher could be sentenced to fourteen years in prison.⁸

A number of speakers expressed the view that penalties should be enhanced for grooming young victims and for rendering criminal assistance in abuse cases. Because of the public's right to know and the potential harm, many citizens expressed the view that persistent failure to register should be a ranked offense with a tougher penalty. Persons who actively seek out victims should serve at least one year and one day. Some felt that conviction of a sex offense should also carry a fine dedicated to community education about this area of the law.

C. Plea Bargaining/Discretion

Lay persons appearing at the hearings, while understanding the value of plea bargaining, asked the Commission to recognize that practices in certain areas are defeating the purpose of the persistent offender law and determinate plus sentencing. Persons who commit sex

⁸ The speaker was apparently referring to a prosecution arising out of an organized large scale poaching operation that involved over 100 counts of poaching shellfish valued at amounts in excess of \$3M.

crimes are apparently being charged with non-sex offenses. As an example, the Commission learned that in one location, a particularly violent rape was charged as residential burglary without sexual motivation.

There appeared to be general support for the view that the sentencing of sex offenders should be handled on a case-by-case basis. Defense counsel observed that presiding judges should be given broader discretion in determining the appropriate sentence.

D. Community Supervision/Treatment

There was also general agreement about the value of treatment for sex offenders and victims. The need for additional funding for treatment and the need to extend the length of treatment were recurring themes throughout the hearings. Treatment should not be limited to those who have the resources to pay. The Commission was asked to recommend changes aimed at holding treatment providers more accountable for recidivism of their clients.

Some speakers expressed some concern about the lack of treatment in Department of Corrections facilities. They suggested that the legislature consider employing a Drug Offender Sentencing Alternative (DOSA) type system for sex offender treatment during incarceration.

In several communities, the Commission heard that supervision and registration remain problems. Sex offenders are being permitted to live in housing in close proximity to places frequented by children, such as libraries. Commission members were asked to consider that many violations of the conditions of supervision are not reported. Many believe that most sex offenders commit numerous offenses before being convicted. Speakers, including offenders' family members, felt that Community Correction Officers should receive special training to supervise sex offenders and should strengthen present levels of supervision.

E. Victims

Victims, in SSOSA and non-SSOSA cases, testified on all the issues previously addressed. Many adopted the views of the criminal justice professionals and expressed, if not wholehearted support, at least overall acceptance of the sentencing alternative. Many parents of victims testified about the difficulty of seeking help for the victim at the same time as trying to protect them from additional "victimization by the system." These parents agreed with prosecutors and defense counsel in stating that because SSOSA offenders plead guilty and relieve the victim of testifying in an adversarial setting, the absence of SSOSA would have a chilling effect on their willingness to report abuse. In each location, victims and their families testified that the availability of the SSOSA served as the deciding factor in their decision to file charges.

Victims, like members of the general public, testified that in many instances penalties are still too lenient especially in light of what is often a lifetime of damage suffered by victims. Unlike the general public, victims spoke about the positive aspects of providing the opportunity for leniency to an offender based on a family relationship. Although the harm

is severe, many victims did not want to see family members imprisoned for lengthy periods. They did want offenders to publicly admit their actions and to receive some punishment. Some victims testified in favor of leniency for family members in some cases because of the financial hardship families encounter when the offender is also the primary breadwinner.

Victims also testified about the need for an increase in funding for care and treatment of victims and as well as required sex offender treatment. Some expressed the view that the funds available under the Crime Victims Compensation Fund are not sufficient. There was also some support for the idea of withholding additional funds for offender treatment until similar funds are earmarked for victims. Many also assert that more attention should be placed upon the wishes of victims in all sex offense cases. Additionally many expressed the view that since victims suffer ongoing pain, sex offenders should have to pay restitution to victims for life.

F. Other Issues

Several prosecutors asked the Commission to recommend re-examination of the definition of “bodily harm” as used in sex offense statutes. They observed that the extreme harm caused by sexual offenses is not necessarily physical. Some members of the public expressed outrage at the time it takes for cases to come to trial. A member of an offender’s family spoke of 27 months confinement in jail without trial and a victim’s parent spoke of a three-year wait for conclusion of a case.

Victims and advocates suggested that due to the enduring nature of the injury caused by sexual abuse, there should be no statute of limitations for these offenses.

County and city officials asked the Commission to re-examine the number and nature of unranked offenses. Since unranked offenses carry a sentence of less than twelve months confinement, these sentences represent unfunded mandates to local government.

IV. Findings and Recommendations

SSOSA remains a valuable although infrequently used part of the state’s sex offender sentencing laws. The 2004 amendments appreciably insure that the option is used only where necessary and when there is minimal risk to public safety. SSOSA continues to require treatment of offenders. As a result, the Commission found deep-seated and rather wide spread support both for SSOSA and for those sentencing options that result in stiff penalties for offenders convicted of violent and serious sex offenses.

The most significant change to SSOSA should result in a significant reduction in the number of cases where the alternative will be approved. SSOSA is still effectively limited to offenders who are amenable to treatment. Practitioners, victims and members of the general public accept that with the added length and breath of supervision and treatment requirements, offenders sentenced pursuant to SSOSA should pose a reduced risk to community safety. The recidivism rates of SSOSA participants should be sustained and perhaps, improved with these additional eligibility standards.

Additionally, the amendments appear to have corrected weakness in victims' involvement in the prosecution of sex offense cases. Although, the court will not be bound by victims' requests, the changes to SSOSA impose an affirmative duty upon the court to consider those requests. The integrity of the program is protected, we think, by the preservation of sufficient judicial discretion to permit necessary individualization of sentencing. The amendments protect judicial oversight in the progress of treatment. Just as importantly, the changes to SSOSA appear to adequately address potential conflicts of interest among treatment and evaluation providers.

The Commission does not propose any new legislation. Rather, we recommend that the 2004 changes to the SRA remain as written. The Commission also recommends that, resources permitting, these amendments be reviewed and evaluated for effectiveness and conformity with the purposes of the SRA after the passage of three years.