
SUBSTITUTE HOUSE BILL 1563

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Quall and Costa; by request of Governor Lowry and Attorney General)

Read first time 02/28/95.

1 AN ACT Relating to juvenile offenders; amending RCW 13.40.0357,
2 13.40.050, 13.40.130, 5.60.060, 13.04.030, 13.40.080, 13.40.010,
3 13.40.025, 13.40.027, 13.40.030, 13.40.210, 13.40.045, and 13.40.060;
4 reenacting and amending RCW 13.40.020; adding new sections to chapter
5 13.40 RCW; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
8 and 1994 c 261 s 18 are each reenacted and amended to read as follows:

9 For the purposes of this chapter:

10 (1) "Serious offender" means a person (~~fifteen years of age or~~
11 ~~older~~) who has committed an offense which if committed by an adult
12 would be:

13 (a) A class A felony, or an attempt to commit a class A felony;

14 (b) Manslaughter in the first degree; or

15 (c) Assault in the second degree, extortion in the first degree,
16 child molestation in the second degree, kidnapping in the second
17 degree, robbery in the second degree, residential burglary, or burglary
18 in the second degree, where such offenses include the infliction of
19 bodily harm upon another or where during the commission of or immediate

1 withdrawal from such an offense the perpetrator is armed with a deadly
2 weapon;

3 (2) "Community service" means compulsory service, without
4 compensation, performed for the benefit of the community by the
5 offender as punishment for committing an offense. Community service
6 may be performed through public or private organizations or through
7 work crews;

8 (3) "Community supervision" means an order of disposition by the
9 court of an adjudicated youth not committed to the department or an
10 order granting a deferred adjudication pursuant to RCW 13.40.125. A
11 community supervision order for a single offense may be for a period of
12 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
13 one year for other offenses. As a mandatory condition of any term of
14 community supervision, the court shall order the juvenile to refrain
15 from committing new offenses. As a mandatory condition of community
16 supervision, the court shall order the juvenile to comply with the
17 mandatory school attendance provisions of chapter 28A.225 RCW and to
18 inform the school of the existence of this requirement. Community
19 supervision is an individualized program comprised of one or more of
20 the following:

21 (a) Community-based sanctions;

22 (b) Community-based rehabilitation;

23 (c) Monitoring and reporting requirements;

24 (4) Community-based sanctions may include one or more of the
25 following:

26 (a) A fine, not to exceed one hundred dollars;

27 (b) Community service not to exceed one hundred fifty hours of
28 service;

29 (5) "Community-based rehabilitation" means one or more of the
30 following: Attendance of information classes; counseling, outpatient
31 substance abuse treatment programs, outpatient mental health programs,
32 anger management classes, education or outpatient treatment programs to
33 prevent animal cruelty, or other services; or attendance at school or
34 other educational programs appropriate for the juvenile as determined
35 by the school district. Placement in community-based rehabilitation
36 programs is subject to available funds;

37 (6) "Monitoring and reporting requirements" means one or more of
38 the following: Curfews; requirements to remain at home, school, work,
39 or court-ordered treatment programs during specified hours;

1 restrictions from leaving or entering specified geographical areas;
2 requirements to report to the probation officer as directed and to
3 remain under the probation officer's supervision; and other conditions
4 or limitations as the court may require which may not include
5 confinement;

6 (7) "Confinement" means physical custody by the department of
7 social and health services in a facility operated by or pursuant to a
8 contract with the state, or physical custody in a detention facility
9 operated by or pursuant to a contract with any county. The county may
10 operate or contract with vendors to operate county detention
11 facilities. The department may operate or contract to operate
12 detention facilities for juveniles committed to the department.
13 Pretrial confinement or confinement of less than thirty-one days
14 imposed as part of a disposition or modification order may be served
15 consecutively or intermittently, in the discretion of the court;

16 (8) "Court", when used without further qualification, means the
17 juvenile court judge(s) or commissioner(s);

18 (9) "Criminal history" includes all criminal complaints against the
19 respondent for which, prior to the commission of a current offense:

20 (a) The allegations were found correct by a court. If a respondent
21 is convicted of two or more charges arising out of the same course of
22 conduct, only the highest charge from among these shall count as an
23 offense for the purposes of this chapter; or

24 (b) The criminal complaint was diverted by a prosecutor pursuant to
25 the provisions of this chapter on agreement of the respondent and after
26 an advisement to the respondent that the criminal complaint would be
27 considered as part of the respondent's criminal history. A
28 successfully completed deferred adjudication shall not be considered
29 part of the respondent's criminal history;

30 (10) "Department" means the department of social and health
31 services;

32 (11) "Detention facility" means a county facility, paid for by the
33 county, for the physical confinement of a juvenile alleged to have
34 committed an offense or an adjudicated offender subject to a
35 disposition or modification order. "Detention facility" includes
36 county group homes, inpatient substance abuse programs, juvenile basic
37 training camps, and electronic monitoring;

38 (12) "Diversion unit" means any probation counselor who enters into
39 a diversion agreement with an alleged youthful offender, or any other

1 person, community accountability board, or other entity except a law
2 enforcement official or entity, with whom the juvenile court
3 administrator has contracted to arrange and supervise such agreements
4 pursuant to RCW 13.40.080, or any person, community accountability
5 board, or other entity specially funded by the legislature to arrange
6 and supervise diversion agreements in accordance with the requirements
7 of this chapter. For purposes of this subsection, "community
8 accountability board" means a board comprised of members of the local
9 community in which the juvenile offender resides. The superior court
10 shall appoint the members. The boards shall consist of at least three
11 and not more than seven members. If possible, the board should include
12 a variety of representatives from the community, such as a law
13 enforcement officer, teacher or school administrator, high school
14 student, parent, and business owner, and should represent the cultural
15 diversity of the local community;

16 (13) "Institution" means a juvenile facility established pursuant
17 to chapters 72.05 and 72.16 through 72.20 RCW;

18 (14) "Juvenile," "youth," and "child" mean any individual who is
19 under the chronological age of eighteen years and who has not been
20 previously transferred to adult court pursuant to RCW 13.40.110 or who
21 is otherwise under adult court jurisdiction;

22 (15) "Juvenile offender" means any juvenile who has been found by
23 the juvenile court to have committed an offense, including a person
24 eighteen years of age or older over whom jurisdiction has been extended
25 under RCW 13.40.300;

26 (16) "Manifest injustice" means a disposition that would either
27 impose an excessive penalty on the juvenile or would impose a serious,
28 and clear danger to society in light of the purposes of this chapter;

29 (17) "Middle offender" means a person who has committed an offense
30 and who is neither a minor or first offender nor a serious offender;

31 (18) "Minor or first offender" means a person whose current
32 offense(s) and criminal history fall entirely within one of the
33 following categories:

34 (a) Four misdemeanors;

35 (b) Two misdemeanors and one gross misdemeanor;

36 (c) One misdemeanor and two gross misdemeanors; and

37 (d) Three gross misdemeanors.

38 For purposes of this definition, current violations shall be
39 counted as misdemeanors;

1 (19) "Offense" means an act designated a violation or a crime if
2 committed by an adult under the law of this state, under any ordinance
3 of any city or county of this state, under any federal law, or under
4 the law of another state if the act occurred in that state;

5 (20) "Respondent" means a juvenile who is alleged or proven to have
6 committed an offense;

7 (21) "Restitution" means financial reimbursement by the offender to
8 the victim, and shall be limited to easily ascertainable damages for
9 injury to or loss of property, actual expenses incurred for medical
10 treatment for physical injury to persons, lost wages resulting from
11 physical injury, and costs of the victim's counseling reasonably
12 related to the offense if the offense is a sex offense. Restitution
13 shall not include reimbursement for damages for mental anguish, pain
14 and suffering, or other intangible losses. Nothing in this chapter
15 shall limit or replace civil remedies or defenses available to the
16 victim or offender;

17 (22) "Secretary" means the secretary of the department of social
18 and health services. "Assistant secretary" means the assistant
19 secretary for juvenile rehabilitation for the department;

20 (23) "Services" mean services which provide alternatives to
21 incarceration for those juveniles who have pleaded or been adjudicated
22 guilty of an offense or have signed a diversion agreement pursuant to
23 this chapter;

24 (24) "Sex offense" means an offense defined as a sex offense in RCW
25 9.94A.030;

26 (25) "Sexual motivation" means that one of the purposes for which
27 the respondent committed the offense was for the purpose of his or her
28 sexual gratification;

29 (26) "Foster care" means temporary physical care in a foster family
30 home or group care facility as defined in RCW 74.15.020 and licensed by
31 the department, or other legally authorized care;

32 (27) "Violation" means an act or omission, which if committed by an
33 adult, must be proven beyond a reasonable doubt, and is punishable by
34 sanctions which do not include incarceration;

35 (28) "Violent offense" means a violent offense as defined in RCW
36 9.94A.030.

37 **Sec. 2.** RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended
38 to read as follows:

SCHEDULE A

DESCRIPTION AND OFFENSE CATEGORY

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JUVENILE DISPOSITION	OFFENSE CATEGORY DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
.....		

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is	
	E class) (9A.48.090)	E
E	Tampering with Fire Alarm	
	Apparatus (9.40.100)	E
A	Possession of Incendiary Device	
	(9.40.120)	B+

Assault and Other Crimes

Involving Physical Harm

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment	
	(9A.36.050)	E
C+	Promoting Suicide Attempt	
	(9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C

1	D	Burglary Tools (Possession of)	
2		(9A.52.060)	E
3	D	Criminal Trespass 1 (9A.52.070)	E
4	E	Criminal Trespass 2 (9A.52.080)	E
5	D	Vehicle Prowling (9A.52.100)	E
6		Drugs	
7	E	Possession/Consumption of Alcohol	
8		(66.44.270)	E
9	C	Illegally Obtaining Legend Drug	
10		(69.41.020)	D
11	C+	Sale, Delivery, Possession of Legend	
12		Drug with Intent to Sell	
13		(69.41.030)	D+
14	E	Possession of Legend Drug	
15		(69.41.030)	E
16	B+	Violation of Uniform Controlled	
17		Substances Act - Narcotic Sale	
18		(69.50.401(a)(1)(i))	B+
19	C	Violation of Uniform Controlled	
20		Substances Act - Nonnarcotic Sale	
21		(69.50.401(a)(1)(ii))	C
22	E	Possession of Marihuana <40 grams	
23		(69.50.401(e))	E
24	C	Fraudulently Obtaining Controlled	
25		Substance (69.50.403)	C
26	C+	Sale of Controlled Substance	
27		for Profit (69.50.410)	C+
28	E	Unlawful Inhalation (9.47A.020)	E
29	B	Violation of Uniform Controlled	
30		Substances Act - Narcotic	
31		Counterfeit Substances	
32		(69.50.401(b)(1)(i))	B
33	C	Violation of Uniform Controlled	
34		Substances Act - Nonnarcotic	
35		Counterfeit Substances	
36		(69.50.401(b)(1) (ii), (iii), (iv))	C
37	C	Violation of Uniform Controlled	
38		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(d))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(c))	C
7		Firearms and Weapons	
8	E	Carrying Loaded Pistol Without	
9		Permit (9.41.050)	E
10	C	Possession of Firearms by	
11		Minor (<18) (9.41.040(1)(e))	C
12	D+	Possession of Dangerous Weapon	
13		(9.41.250)	E
14	D	Intimidating Another Person by use	
15		of Weapon (9.41.270)	E
16		Homicide	
17	A+	Murder 1 (9A.32.030)	A
18	A+	Murder 2 (9A.32.050)	B+
19	B+	Manslaughter 1 (9A.32.060)	C+
20	C+	Manslaughter 2 (9A.32.070)	D+
21	B+	Vehicular Homicide (46.61.520)	C+
22		Kidnapping	
23	A	Kidnap 1 (9A.40.020)	B+
24	B+	Kidnap 2 (9A.40.030)	C+
25	C+	Unlawful Imprisonment	
26		(9A.40.040)	D+
27		Obstructing Governmental Operation	
28	E	Obstructing a Public Servant	
29		(9A.76.020)	E
30	E	Resisting Arrest (9A.76.040)	E
31	B	Introducing Contraband 1	
32		(9A.76.140)	C
33	C	Introducing Contraband 2	
34		(9A.76.150)	D
35	E	Introducing Contraband 3	
36		(9A.76.160)	E

1	B+	Intimidating a Public Servant	
2		(9A.76.180)	C+
3	B+	Intimidating a Witness	
4		(9A.72.110)	C+
5		Public Disturbance	
6	C+	Riot with Weapon (9A.84.010)	D+
7	D+	Riot Without Weapon	
8		(9A.84.010)	E
9	E	Failure to Disperse (9A.84.020)	E
10	E	Disorderly Conduct (9A.84.030)	E
11		Sex Crimes	
12	A	Rape 1 (9A.44.040)	B+
13	A-	Rape 2 (9A.44.050)	B+
14	C+	Rape 3 (9A.44.060)	D+
15	A-	Rape of a Child 1_ (9A.44.073)	B+
16	B	Rape of a Child 2 (9A.44.076)	C+
17	B	Incest 1 (9A.64.020(1))	C
18	C	Incest 2 (9A.64.020(2))	D
19	D+	Indecent Exposure	
20		(Victim <14) (9A.88.010)	E
21	E	Indecent Exposure	
22		(Victim 14 or over) (9A.88.010)	E
23	B+	Promoting Prostitution 1	
24		(9A.88.070)	C+
25	C+	Promoting Prostitution 2	
26		(9A.88.080)	D+
27	E	O & A (Prostitution) (9A.88.030)	E
28	B+	Indecent Liberties (9A.44.100)	C+
29	B+	Child Molestation 1 ² (9A.44.083)	C+
30	C+	Child Molestation 2 (9A.44.086)	C
31	<u>C</u>	<u>Failure to Register</u>	
32		<u>(For Class A Felony)</u>	<u>D</u>
33	<u>D</u>	<u>Failure to Register</u>	
34		<u>(For Class B Felony or Less)</u>	<u>E</u>
35		Theft, Robbery, Extortion, and Forgery	
36	B	Theft 1 (9A.56.030)	C
37	C	Theft 2 (9A.56.040)	D
38	D	Theft 3 (9A.56.050)	E

1	B	Theft of Livestock (9A.56.080)	C
2	C	Forgery (9A.60.020)	D
3	A	Robbery 1 (9A.56.200)	B+
4	B+	Robbery 2 (9A.56.210)	C+
5	B+	Extortion 1 (9A.56.120)	C+
6	C+	Extortion 2 (9A.56.130)	D+
7	B	Possession of Stolen Property 1	
8		(9A.56.150)	C
9	C	Possession of Stolen Property 2	
10		(9A.56.160)	D
11	D	Possession of Stolen Property 3	
12		(9A.56.170)	E
13	C	Taking Motor Vehicle Without	
14		Owner's Permission (9A.56.070)	D
15		Motor Vehicle Related Crimes	
16	E	Driving Without a License	
17		(46.20.021)	E
18	C	Hit and Run - Injury	
19		(46.52.020(4))	D
20	D	Hit and Run-Attended	
21		(46.52.020(5))	E
22	E	Hit and Run-Unattended	
23		(46.52.010)	E
24	C	Vehicular Assault (46.61.522)	D
25	C	Attempting to Elude Pursuing	
26		Police Vehicle (46.61.024)	D
27	E	Reckless Driving (46.61.500)	E
28	D	Driving While Under the Influence	
29		(46.61.515)	E
30	D	Vehicle Prowling (9A.52.100)	E
31	C	Taking Motor Vehicle Without	
32		Owner's Permission (9A.56.070)	D
33		Other	
34	B	Bomb Threat (9.61.160)	C
35	C	Escape 1((3))_ (9A.76.110)	C
36	C	Escape 2((3))_ (9A.76.120)	C
37	D	Escape 3 (9A.76.130)	E

1	C	Failure to Appear in Court	
2		(10.19.130)	D
3	<u>C</u>	<u>Stalking (Repeat)</u>	<u>D</u>
4	<u>D</u>	<u>Stalking (1st Time)</u>	<u>E</u>
5	E	Obscene, Harassing, Etc.,	
6		Phone Calls (9.61.230)	E
7	A	Other Offense Equivalent to an	
8		Adult Class A Felony	B+
9	B	Other Offense Equivalent to an	
10		Adult Class B Felony	C
11	C	Other Offense Equivalent to an	
12		Adult Class C Felony	D
13	D	Other Offense Equivalent to an	
14		Adult Gross Misdemeanor	E
15	E	Other Offense Equivalent to an	
16		Adult Misdemeanor	E
17	V	Violation of Order of Restitution,	
18		Community Supervision, or	
19		Confinement (13.40.200)((3))	V

20 ¹Rape of a Child 1 requires a mandatory minimum sentence of 52-65 weeks
21 confinement

22 ²Child Molestation 1 requires a mandatory minimum sentence of 21-28
23 weeks confinement

24 ¶ \ Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C
25 offenses and the standard range is established as follows:

26 1st escape or attempted escape during 12-month period - 4 weeks
27 confinement

28 2nd escape or attempted escape during 12-month period - 8 weeks
29 confinement

30 3rd and subsequent escape or attempted escape during 12-month
31 period - 12 weeks confinement

32 ¶ \ If the court finds that a respondent has violated terms of an
33 order, it may impose a penalty of up to 30 days of confinement.

34 **SCHEDULE B**
35 **PRIOR OFFENSE INCREASE FACTOR**

36 For use with all CURRENT OFFENSES occurring on or after July 1,
37 1989.

TIME SPAN

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

SCHEDULE C

CURRENT OFFENSE POINTS

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

AGE

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

JUVENILE SENTENCING STANDARDS

SCHEDULE D-1

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

MINOR/FIRST OFFENDER

OPTION A

STANDARD RANGE

Points	Community		
	Supervision	Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100))
1-109	0-12 months	and/or 0-150	and/or 0-\$100

((OR

OPTION B

STATUTORY OPTION

- ~~0-12 Months Community Supervision~~
- ~~0-150 Hours Community Service~~
- ~~0-100 Fine~~

~~A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.))~~

OR

OPTION ((C) B

MANIFEST INJUSTICE

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a

1 sentence of confinement exceeding 30 days, the court shall sentence the
2 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
3 be used to determine the range.

4 **JUVENILE SENTENCING STANDARDS**
5 **SCHEDULE D-2**

6 This schedule may only be used for middle offenders. After the
7 determination is made that a youth is a middle offender, the court has
8 the discretion to select sentencing option A, B, or C.

9 **MIDDLE OFFENDER**

10 **OPTION A**
11 **STANDARD RANGE**

	Community				Confinement
Points	Community Supervision	Service Hours	Fine		Days Weeks
.....					
(1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4	
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4	
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10	
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10	
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20	
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20	
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30))	
<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>	
110-129					8-12
130-149					13-16
150-199					21-28
200-249					30-40
250-299					52-65
300-374					80-100
375+					103-129

34 For all determinate dispositions of up to 30 days confinement for
35 middle offenders with fewer than 110 points the court shall state its
36 reasons in writing why alternatives to confinement are not used.

37 Middle offenders with more than 110 points do not have to be committed.
38 They may be assigned community supervision under option B.
39 All A+ offenses 180-224 weeks

1 OR

2
3 **OPTION B**

4 **STATUTORY OPTION**

5 0-12 Months Community Supervision

6 0-150 Hours Community Service

7 0-100 Fine

8 The court may impose a determinate disposition of community supervision
9 and/or up to 30 days confinement; in which case, if confinement has
10 been imposed, the court shall state either aggravating or mitigating
11 factors as set forth in RCW 13.40.150.

12 OR

13
14 **OPTION C**

15 **MANIFEST INJUSTICE**

16 If the court determines that a disposition under A or B would
17 effectuate a manifest injustice, the court shall sentence the juvenile
18 to a maximum term and the provisions of RCW 13.40.030(2) shall be used
19 to determine the range.

20 **JUVENILE SENTENCING STANDARDS**

21 **SCHEDULE D-3**

22 This schedule may only be used for serious offenders. After the
23 determination is made that a youth is a serious offender, the court has
24 the discretion to select sentencing option A or B.

25 **SERIOUS OFFENDER**

26 **OPTION A**

27 **STANDARD RANGE**

Points	Institution Time
.....	
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks

1 375+ 103-129 weeks
2 All A+ Offenses 180-224 weeks

3 OR

4
5 OPTION B

6 MANIFEST INJUSTICE

7 A disposition outside the standard range shall be determined and shall
8 be comprised of confinement or community supervision or a combination
9 thereof. When a judge finds a manifest injustice and imposes a
10 sentence of confinement exceeding 30 days, the court shall sentence the
11 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)
12 shall be used to determine the range.

13 **Sec. 3.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
14 read as follows:

15 (1) When a juvenile taken into custody is held in detention:

16 (a) An information, a community supervision modification or
17 termination of diversion petition, or a parole modification petition
18 shall be filed within seventy-two hours, Saturdays, Sundays, and
19 holidays excluded, or the juvenile shall be released; and

20 (b) A detention hearing, a community supervision modification or
21 termination of diversion petition, or a parole modification petition
22 shall be held within seventy-two hours, Saturdays, Sundays, and
23 holidays excluded, from the time of filing the information or petition,
24 to determine whether continued detention is necessary under RCW
25 13.40.040.

26 (2) Notice of the detention hearing, stating the time, place, and
27 purpose of the hearing, (~~and stating~~) the right to counsel, and
28 commanding them to appear, shall be given to the parent, guardian, or
29 custodian if such person can be found and shall also be given to the
30 juvenile if over twelve years of age. The parent, guardian, or
31 custodian shall attend the detention hearing.

32 (3) At the commencement of the detention hearing, the court shall
33 advise the parties of their rights under this chapter and shall appoint
34 counsel as specified in this chapter.

35 (4) The court shall, based upon the allegations in the information,
36 determine whether the case is properly before it or whether the case

1 should be treated as a diversion case under RCW 13.40.080. If the case
2 is not properly before the court the juvenile shall be ordered
3 released.

4 (5) Notwithstanding a determination that the case is properly
5 before the court and that probable cause exists, a juvenile shall at
6 the detention hearing be ordered released on the juvenile's personal
7 recognizance pending further hearing unless the court finds detention
8 is necessary under RCW 13.40.040 as now or hereafter amended.

9 (6) If detention is not necessary under RCW 13.40.040, as now or
10 hereafter amended, the court shall impose the most appropriate of the
11 following conditions or, if necessary, any combination of the following
12 conditions:

13 (a) Place the juvenile in the custody of a designated person
14 agreeing to supervise such juvenile;

15 (b) Place restrictions on the travel of the juvenile during the
16 period of release;

17 (c) Require the juvenile to report regularly to and remain under
18 the supervision of the juvenile court;

19 (d) Impose any condition other than detention deemed reasonably
20 necessary to assure appearance as required; or

21 (e) Require that the juvenile return to detention during specified
22 hours.

23 (7) If the parent, guardian, or custodian of the juvenile in
24 detention is available, the court shall consult with them prior to a
25 determination to further detain or release the juvenile or treat the
26 case as a diversion case under RCW 13.40.080.

27 (8) If the person notified as provided in this section fails
28 without reasonable cause to appear, the person may be found in contempt
29 of court, pursuant to chapter 7.21 RCW.

30 **Sec. 4.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to read
31 as follows:

32 (1) The respondent shall be advised of the allegations in the
33 information and shall be required to plead guilty or not guilty to the
34 allegation(s). The state or the respondent may make preliminary
35 motions up to the time of the plea.

36 (2) If the respondent pleads guilty, the court may proceed with
37 disposition or may continue the case for a dispositional hearing. If
38 the respondent denies guilt, an adjudicatory hearing date shall be set.

1 The court shall notify the parent, guardian, or custodian of any
2 juvenile described in the charging document of the date, time, and
3 place of the dispositional or adjudicatory hearing and the parent,
4 guardian, or custodian shall attend.

5 (3) At the adjudicatory hearing it shall be the burden of the
6 prosecution to prove the allegations of the information beyond a
7 reasonable doubt.

8 (4) The court shall record its findings of fact and shall enter its
9 decision upon the record. Such findings shall set forth the evidence
10 relied upon by the court in reaching its decision.

11 (5) If the respondent is found not guilty he or she shall be
12 released from detention.

13 (6) If the respondent is found guilty the court may immediately
14 proceed to disposition or may continue the case for a dispositional
15 hearing. Notice of the time and place of the continued hearing may be
16 given in open court. If notice is not given in open court to a party,
17 the party and the parent, guardian, or custodian shall be notified by
18 mail of the time and place of the continued hearings. The notice shall
19 command the parent, guardian, or custodian to attend the hearing.

20 (7) The court following an adjudicatory hearing may request that a
21 predisposition study be prepared to aid the court in its evaluation of
22 the matters relevant to disposition of the case.

23 (8) The disposition hearing shall be held within fourteen days
24 after the adjudicatory hearing or plea of guilty unless good cause is
25 shown for further delay, or within twenty-one days if the juvenile is
26 not held in a detention facility, unless good cause is shown for
27 further delay.

28 (9) In sentencing an offender, the court shall use the disposition
29 standards in effect on the date of the offense.

30 (10) If the person notified as provided in this section fails
31 without reasonable cause to appear, the person may be found in contempt
32 of court, pursuant to chapter 7.21 RCW.

33 **Sec. 5.** RCW 5.60.060 and 1989 c 271 s 301 are each amended to read
34 as follows:

35 (1) A husband shall not be examined for or against his wife,
36 without the consent of the wife, nor a wife for or against her husband
37 without the consent of the husband; nor can either during marriage or
38 afterward, be without the consent of the other, examined as to any

1 communication made by one to the other during marriage. But this
2 exception shall not apply to a civil action or proceeding by one
3 against the other, nor to a criminal action or proceeding for a crime
4 committed by one against the other, nor to a criminal action or
5 proceeding against a spouse if the marriage occurred subsequent to the
6 filing of formal charges against the defendant, nor to a criminal
7 action or proceeding for a crime committed by said husband or wife
8 against any child of whom said husband or wife is the parent or
9 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
10 PROVIDED, That the spouse of a person sought to be detained under
11 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
12 be so informed by the court prior to being called as a witness.

13 (2) An attorney or counselor shall not, without the consent of his
14 or her client, be examined as to any communication made by the client
15 to him or her, or his or her advice given thereon in the course of
16 professional employment.

17 (3) A parent shall not be examined as to a communication made by
18 that parent's minor child to the child's attorney after the filing of
19 juvenile offender or adult criminal charges, if the parent was present
20 at the time of the communication. This privilege does not extend to
21 communications made prior to filing of charges.

22 (4) A member of the clergy or a priest shall not, without the
23 consent of a person making the confession, be examined as to any
24 confession made to him or her in his or her professional character, in
25 the course of discipline enjoined by the church to which he or she
26 belongs.

27 ((+4)) (5) Subject to the limitations under RCW 70.96A.140 or
28 71.05.250, a physician or surgeon or osteopathic physician or surgeon
29 shall not, without the consent of his or her patient, be examined in a
30 civil action as to any information acquired in attending such patient,
31 which was necessary to enable him or her to prescribe or act for the
32 patient, except as follows:

33 (a) In any judicial proceedings regarding a child's injury,
34 neglect, or sexual abuse or the cause thereof; and

35 (b) Ninety days after filing an action for personal injuries or
36 wrongful death, the claimant shall be deemed to waive the physician-
37 patient privilege. Waiver of the physician-patient privilege for any
38 one physician or condition constitutes a waiver of the privilege as to

1 all physicians or conditions, subject to such limitations as a court
2 may impose pursuant to court rules.

3 ~~((+5))~~ (6) A public officer shall not be examined as a witness as
4 to communications made to him or her in official confidence, when the
5 public interest would suffer by the disclosure.

6 **Sec. 6.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended to
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, the
9 juvenile courts in the several counties of this state, shall have
10 exclusive original jurisdiction over all proceedings:

11 (a) Under the interstate compact on placement of children as
12 provided in chapter 26.34 RCW;

13 (b) Relating to children alleged or found to be dependent as
14 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

15 (c) Relating to the termination of a parent and child relationship
16 as provided in RCW 13.34.180 through 13.34.210;

17 (d) To approve or disapprove alternative residential placement as
18 provided in RCW 13.32A.170;

19 (e) Relating to juveniles alleged or found to have committed
20 offenses, traffic infractions, or violations as provided in RCW
21 13.40.020 through 13.40.230, unless:

22 (i) The juvenile court transfers jurisdiction of a particular
23 juvenile to adult criminal court pursuant to RCW 13.40.110; or

24 (ii) The statute of limitations applicable to adult prosecution for
25 the offense, traffic infraction, or violation has expired; or

26 (iii) The alleged offense or infraction is a traffic, fish,
27 boating, or game offense or traffic infraction committed by a juvenile
28 sixteen years of age or older and would, if committed by an adult, be
29 tried or heard in a court of limited jurisdiction, in which instance
30 the appropriate court of limited jurisdiction shall have jurisdiction
31 over the alleged offense or infraction: PROVIDED, That if such an
32 alleged offense or infraction and an alleged offense or infraction
33 subject to juvenile court jurisdiction arise out of the same event or
34 incident, the juvenile court may have jurisdiction of both matters:
35 PROVIDED FURTHER, That the jurisdiction under this subsection does not
36 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
37 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
38 jurisdiction which confine juveniles for an alleged offense or

1 infraction may place juveniles in juvenile detention facilities under
2 an agreement with the officials responsible for the administration of
3 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

4 (iv) The juvenile is sixteen or seventeen years old and the alleged
5 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
6 committed on or after June 13, 1994; or (B) a violent offense as
7 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
8 juvenile has a criminal history consisting of: (I) One or more prior
9 serious violent offenses; (II) two or more prior violent offenses; or
10 (III) three or more of any combination of the following offenses: Any
11 class A felony, any class B felony, vehicular assault, or manslaughter
12 in the second degree, all of which must have been committed after the
13 juvenile's thirteenth birthday and prosecuted separately. In such a
14 case the adult criminal court shall have exclusive original
15 jurisdiction.

16 If the juvenile challenges the state's determination of the
17 juvenile's criminal history, the state may establish the offender's
18 criminal history by a preponderance of the evidence. If the criminal
19 history consists of adjudications entered upon a plea of guilty, the
20 state shall not bear a burden of establishing the knowing and
21 voluntariness of the plea;

22 (f) Under the interstate compact on juveniles as provided in
23 chapter 13.24 RCW;

24 (g) Relating to termination of a diversion agreement under RCW
25 13.40.080, including a proceeding in which the divertee has attained
26 eighteen years of age; and

27 (h) Relating to court validation of a voluntary consent to foster
28 care placement under chapter 13.34 RCW, by the parent or Indian
29 custodian of an Indian child, except if the parent or Indian custodian
30 and child are residents of or domiciled within the boundaries of a
31 federally recognized Indian reservation over which the tribe exercises
32 exclusive jurisdiction.

33 (2) The family court shall have concurrent original jurisdiction
34 with the juvenile court over all proceedings under this section if the
35 superior court judges of a county authorize concurrent jurisdiction as
36 provided in RCW 26.12.010.

37 (3) A juvenile subject to adult superior court jurisdiction under
38 subsection (1)(e) (i) through (iv) of this section, who is detained

1 pending trial, may be detained in a county detention facility as
2 defined in RCW 13.40.020 pending sentencing or a dismissal.

3 (4) A parent, guardian, or custodian who has custody of any
4 juvenile described in subsection (1)(e) of this section shall be
5 subject to the jurisdiction of the court, if the parent, guardian, or
6 custodian was served with summons, for purposes of participating in
7 diversion agreements pursuant to RCW 13.40.080(2)(d).

8 **Sec. 7.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended to
9 read as follows:

10 (1) A diversion agreement shall be a contract between a juvenile
11 accused of an offense and a diversionary unit whereby the juvenile
12 agrees to fulfill certain conditions in lieu of prosecution. Such
13 agreements may be entered into only after the prosecutor, or probation
14 counselor pursuant to this chapter, has determined that probable cause
15 exists to believe that a crime has been committed and that the juvenile
16 committed it. Such agreements shall be entered into as expeditiously
17 as possible.

18 (2) A diversion agreement shall be limited to one or more of the
19 following:

20 (a) Community service not to exceed one hundred fifty hours, not to
21 be performed during school hours if the juvenile is attending school;

22 (b) Restitution limited to the amount of actual loss incurred by
23 the victim, and to an amount the juvenile has the means or potential
24 means to pay;

25 (c) Attendance at ~~((up to ten hours of))~~ counseling and/or ~~((up to~~
26 ~~twenty hours of))~~ educational or informational sessions at a community
27 agency for a specified period of time as determined by the diversion
28 unit. The educational or informational sessions may include sessions
29 relating to respect for self, others, and authority; victim awareness;
30 accountability; self-worth; responsibility; work ethics; good
31 citizenship; and life skills. For purposes of this section, "community
32 agency" may also mean a community-based nonprofit organization, if
33 approved by the diversion unit. The state shall not be liable for
34 costs resulting from the diversionary unit exercising the option to
35 permit diversion agreements to mandate attendance at ~~((up to ten hours~~
36 ~~of))~~ counseling and/or ~~((up to twenty hours of))~~ educational or
37 informational sessions;

1 (d) A requirement that the juvenile and the juvenile's parents,
2 guardian, or custodian attend and participate together in counseling
3 sessions;

4 (e) A fine, not to exceed one hundred dollars. In determining the
5 amount of the fine, the diversion unit shall consider only the
6 juvenile's financial resources and whether the juvenile has the means
7 to pay the fine. The diversion unit shall not consider the financial
8 resources of the juvenile's parents, guardian, or custodian in
9 determining the fine to be imposed; ~~((and))~~

10 ~~((e))~~ (f) Requirements to remain during specified hours at home,
11 school, or work, and restrictions on leaving or entering specified
12 geographical areas; and

13 (g) Participation in adult mentoring programs and community
14 monitoring programs.

15 (3) In assessing periods of community service to be performed and
16 restitution to be paid by a juvenile who has entered into a diversion
17 agreement, the court officer to whom this task is assigned shall
18 consult with the juvenile's custodial parent or parents or guardian and
19 victims who have contacted the diversionary unit and, to the extent
20 possible, involve members of the community. Such members of the
21 community shall meet with the juvenile and advise the court officer as
22 to the terms of the diversion agreement and shall supervise the
23 juvenile in carrying out its terms.

24 (4) A diversion agreement may not exceed a period of six months and
25 may include a period extending beyond the eighteenth birthday of the
26 diveree. Any restitution assessed during its term may not exceed an
27 amount which the juvenile could be reasonably expected to pay during
28 this period. If additional time is necessary for the juvenile to
29 complete restitution to the victim, the time period limitations of this
30 subsection may be extended by an additional six months.

31 (5) The juvenile shall retain the right to be referred to the court
32 at any time prior to the signing of the diversion agreement.

33 (6) Diverees and potential diverees shall be afforded due process
34 in all contacts with a diversionary unit regardless of whether the
35 juveniles are accepted for diversion or whether the diversion program
36 is successfully completed. Such due process shall include, but not be
37 limited to, the following:

38 (a) A written diversion agreement shall be executed stating all
39 conditions in clearly understandable language;

1 (b) Violation of the terms of the agreement shall be the only
2 grounds for termination;

3 (c) No divertee may be terminated from a diversion program without
4 being given a court hearing, which hearing shall be preceded by:

5 (i) Written notice of alleged violations of the conditions of the
6 diversion program; and

7 (ii) Disclosure of all evidence to be offered against the divertee;

8 (d) The hearing shall be conducted by the juvenile court and shall
9 include:

10 (i) Opportunity to be heard in person and to present evidence;

11 (ii) The right to confront and cross-examine all adverse witnesses;

12 (iii) A written statement by the court as to the evidence relied on
13 and the reasons for termination, should that be the decision; and

14 (iv) Demonstration by evidence that the divertee has substantially
15 violated the terms of his or her diversion agreement.

16 (e) The prosecutor may file an information on the offense for which
17 the divertee was diverted:

18 (i) In juvenile court if the divertee is under eighteen years of
19 age; or

20 (ii) In superior court or the appropriate court of limited
21 jurisdiction if the divertee is eighteen years of age or older.

22 (7) The diversion unit shall, subject to available funds, be
23 responsible for providing interpreters when juveniles need interpreters
24 to effectively communicate during diversion unit hearings or
25 negotiations.

26 (8) The diversion unit shall be responsible for advising a divertee
27 of his or her rights as provided in this chapter.

28 (9) The diversion unit may refer a juvenile to community-based
29 counseling or treatment programs.

30 (10) The right to counsel shall inure prior to the initial
31 interview for purposes of advising the juvenile as to whether he or she
32 desires to participate in the diversion process or to appear in the
33 juvenile court. The juvenile may be represented by counsel at any
34 critical stage of the diversion process, including intake interviews
35 and termination hearings. The juvenile shall be fully advised at the
36 intake of his or her right to an attorney and of the relevant services
37 an attorney can provide. For the purpose of this section, intake
38 interviews mean all interviews regarding the diversion agreement
39 process.

1 The juvenile shall be advised that a diversion agreement shall
2 constitute a part of the juvenile's criminal history as defined by RCW
3 13.40.020(9). A signed acknowledgment of such advisement shall be
4 obtained from the juvenile, and the document shall be maintained by the
5 diversionary unit together with the diversion agreement, and a copy of
6 both documents shall be delivered to the prosecutor if requested by the
7 prosecutor. The supreme court shall promulgate rules setting forth the
8 content of such advisement in simple language.

9 (11) When a juvenile enters into a diversion agreement, the
10 juvenile court may receive only the following information for
11 dispositional purposes:

12 (a) The fact that a charge or charges were made;

13 (b) The fact that a diversion agreement was entered into;

14 (c) The juvenile's obligations under such agreement;

15 (d) Whether the alleged offender performed his or her obligations
16 under such agreement; and

17 (e) The facts of the alleged offense.

18 (12) A diversionary unit may refuse to enter into a diversion
19 agreement with a juvenile. When a diversionary unit refuses to enter
20 a diversion agreement with a juvenile, it shall immediately refer such
21 juvenile to the court for action and shall forward to the court the
22 criminal complaint and a detailed statement of its reasons for refusing
23 to enter into a diversion agreement. The diversionary unit shall also
24 immediately refer the case to the prosecuting attorney for action if
25 such juvenile violates the terms of the diversion agreement.

26 (13) A diversionary unit may, in instances where it determines that
27 the act or omission of an act for which a juvenile has been referred to
28 it involved no victim, or where it determines that the juvenile
29 referred to it has no prior criminal history and is alleged to have
30 committed an illegal act involving no threat of or instance of actual
31 physical harm and involving not more than fifty dollars in property
32 loss or damage and that there is no loss outstanding to the person or
33 firm suffering such damage or loss, counsel and release or release such
34 a juvenile without entering into a diversion agreement. A diversion
35 unit's authority to counsel and release a juvenile under this
36 subsection shall include the authority to refer the juvenile to
37 community-based counseling or treatment programs. Any juvenile
38 released under this subsection shall be advised that the act or
39 omission of any act for which he or she had been referred shall

1 constitute a part of the juvenile's criminal history as defined by RCW
2 13.40.020(9). A signed acknowledgment of such advisement shall be
3 obtained from the juvenile, and the document shall be maintained by the
4 unit, and a copy of the document shall be delivered to the prosecutor
5 if requested by the prosecutor. The supreme court shall promulgate
6 rules setting forth the content of such advisement in simple language.
7 A juvenile determined to be eligible by a diversionary unit for release
8 as provided in this subsection shall retain the same right to counsel
9 and right to have his or her case referred to the court for formal
10 action as any other juvenile referred to the unit.

11 (14) A diversion unit may supervise the fulfillment of a diversion
12 agreement entered into before the juvenile's eighteenth birthday and
13 which includes a period extending beyond the diverttee's eighteenth
14 birthday.

15 (15) If a fine required by a diversion agreement cannot reasonably
16 be paid due to a change of circumstance, the diversion agreement may be
17 modified at the request of the diverttee and with the concurrence of the
18 diversion unit to convert an unpaid fine into community service. The
19 modification of the diversion agreement shall be in writing and signed
20 by the diverttee and the diversion unit. The number of hours of
21 community service in lieu of a monetary penalty shall be converted at
22 the rate of the prevailing state minimum wage per hour.

23 (16) Fines imposed under this section shall be collected and paid
24 into the county general fund in accordance with procedures established
25 by the juvenile court administrator under RCW 13.04.040 and may be used
26 only for juvenile services. In the expenditure of funds for juvenile
27 services, there shall be a maintenance of effort whereby counties
28 exhaust existing resources before using amounts collected under this
29 section.

30 **Sec. 8.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
31 read as follows:

32 (1) This chapter shall be known and cited as the Juvenile Justice
33 Act of 1977.

34 (2) It is the intent of the legislature that a system capable of
35 having primary responsibility for, being accountable for, and
36 responding to the needs of youthful offenders, as defined by this
37 chapter, be established. It is the further intent of the legislature
38 that youth, in turn, be held accountable for their offenses and that

1 (~~both~~) communities, families, and the juvenile courts carry out their
2 functions consistent with this intent. To effectuate these policies,
3 the legislature declares the following to be equally important purposes
4 of this chapter:

5 (a) Protect the citizenry from criminal behavior;

6 (b) Provide for determining whether accused juveniles have
7 committed offenses as defined by this chapter;

8 (c) Make the juvenile offender accountable for his or her criminal
9 behavior;

10 (d) Provide for punishment commensurate with the age, crime, and
11 criminal history of the juvenile offender;

12 (e) Provide due process for juveniles alleged to have committed an
13 offense;

14 (f) Ensure that racial and ethnic minority families are not
15 disproportionately affected by the juvenile justice system;

16 (g) Provide necessary treatment, supervision, and custody for
17 juvenile offenders;

18 (~~(g)~~) (h) Provide for the handling of juvenile offenders by
19 communities whenever consistent with public safety;

20 (~~(h)~~) (i) Provide for restitution to victims of crime;

21 (~~(i)~~) (j) Develop effective standards and goals for the
22 operation, funding, and evaluation of all components of the juvenile
23 justice system and related services at the state and local levels;

24 (~~and~~

25 ~~(j)~~) (k) Provide for a clear policy to determine what types of
26 offenders shall receive punishment, treatment, or both, and to
27 determine the jurisdictional limitations of the courts, institutions,
28 and community services; and

29 (l) Encourage the parents, guardian, or custodian of the juvenile
30 to actively participate in the juvenile justice process.

31 **Sec. 9.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
32 as follows:

33 (1) There is established a juvenile disposition standards
34 commission to propose disposition standards to the legislature in
35 accordance with RCW 13.40.030 and perform the other responsibilities
36 set forth in this chapter.

37 (2) The commission shall be composed of the secretary or the
38 secretary's designee, the director of financial management or the

1 director's designee, and the following ~~((nine))~~ thirteen members
2 appointed by the governor, subject to confirmation by the senate: (a)
3 ~~((A))~~ Two superior court judges; (b) ~~((a))~~ two prosecuting attorneys or
4 deputy prosecuting attorneys; (c) a law enforcement officer; (d) ~~((an))~~
5 two administrators of juvenile court services; (e) ~~((a))~~ two public
6 defenders actively practicing in juvenile court; (f) a county
7 legislative official or county executive; and (g) three other persons
8 who have demonstrated significant interest in the adjudication and
9 disposition of juvenile offenders. In making the appointments, the
10 governor shall seek the recommendations of the association of superior
11 court judges in respect to the members who ~~((is a))~~ are superior court
12 judges; of Washington prosecutors in respect to the prosecuting
13 attorneys or deputy prosecuting attorney members; of the Washington
14 association of sheriffs and police chiefs in respect to the member who
15 is a law enforcement officer; of juvenile court administrators in
16 respect to the members who ~~((is a))~~ are juvenile court administrators;
17 ~~((and))~~ of the state bar association in respect to the public defender
18 members; and of the Washington association of counties in respect to
19 the member who is either a county legislative official or county
20 executive.

21 (3) The ~~((secretary or the secretary's designee shall serve as~~
22 ~~chairman))~~ governor shall designate a chair of the commission.

23 (4) The ~~((secretary shall serve on the commission during the~~
24 ~~secretary's tenure as secretary of the department. The term of the~~
25 ~~remaining members of the commission shall be three years. The initial~~
26 ~~terms shall be determined by lot conducted at the commission's first~~
27 ~~meeting as follows: (a) Four members shall serve a two-year term; and~~
28 ~~(b) four members shall serve a three-year term. In the event of a~~
29 ~~vacancy, the appointing authority shall designate a new member to~~
30 ~~complete the remainder of the unexpired term))~~ speaker of the house of
31 representatives and the president of the senate may each appoint two
32 nonvoting members to the commission, one from each of the two largest
33 caucuses in each house.

34 (5) Commission members shall be reimbursed for travel expenses as
35 provided in RCW 43.03.050 and 43.03.060. Legislative members shall be
36 reimbursed by their respective houses as provided under RCW 44.04.120.
37 Members shall be compensated in accordance with RCW 43.03.240.

38 (6) The commission shall meet at least once every three months.

1 (7) Other than the ex officio members, the voting members of the
2 commission shall serve terms of three years and until their successors
3 are appointed and confirmed. However, the governor shall stagger the
4 terms by appointing one-third of the initial members for terms of one
5 year and one-third of the initial members for terms of two years.

6 **Sec. 10.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
7 as follows:

8 (1) It is the responsibility of the commission to: (a)(i) Evaluate
9 the effectiveness of existing disposition standards and related
10 statutes in implementing policies set forth in RCW 13.40.010 generally,
11 (ii) specifically review the guidelines relating to the confinement of
12 minor and first offenders as well as the use of diversion, and (iii)
13 review the application of current and proposed juvenile sentencing
14 standards and guidelines for potential adverse impacts on the
15 sentencing outcomes of racial and ethnic minority youth; (b) solicit
16 the comments and suggestions of the juvenile justice community
17 concerning disposition standards; and (c) make recommendations to the
18 legislature regarding revisions or modifications of the disposition
19 standards in accordance with RCW 13.40.030. The evaluations shall be
20 submitted to the legislature on December 1 of each even-numbered year
21 ~~((thereafter))~~.

22 (2) It is the responsibility of the department to: (a) Provide the
23 commission with available data concerning the implementation of the
24 disposition standards and related statutes and their effect on the
25 performance of the department's responsibilities relating to juvenile
26 offenders; and (b) ~~((at the request of the commission, provide~~
27 ~~technical and administrative assistance to the commission in the~~
28 ~~performance of its responsibilities; and (c))~~ provide the commission
29 and legislature with recommendations for modification of the
30 disposition standards.

31 (3) It is the responsibility of the sentencing guidelines
32 commission established under RCW 9.94A.040 to provide staffing and
33 services to the commission.

34 **Sec. 11.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
35 as follows:

36 (1)~~((a))~~ The juvenile disposition standards commission shall
37 recommend to the legislature no later than ~~((November 1st of each~~

1 year)) December 1, 1995, disposition standards for all offenses. The
2 standards shall establish, in accordance with the purposes of this
3 chapter, ranges which may include terms of confinement and/or community
4 supervision established on the basis of (~~a youth's age,~~) the instant
5 offense(~~(7)~~) and the history and seriousness of previous offenses, but
6 in no case may the period of confinement and supervision exceed that to
7 which an adult may be subjected for the same offense(s). Standards
8 recommended for offenders listed in RCW 13.40.020(1) shall include a
9 range of confinement which may not be less than thirty days. No
10 standard range may include a period of confinement which includes both
11 more than thirty, and thirty or less, days. Disposition standards
12 recommended by the commission shall provide that in all cases where a
13 youth is sentenced to a term of confinement in excess of thirty days
14 the department may impose an additional period of parole (~~not to~~
15 ~~exceed eighteen months~~). Standards of confinement which may be
16 proposed may relate only to the length of the proposed terms and not to
17 the nature of the security to be imposed. In developing recommended
18 disposition standards, the commission shall consider the capacity of
19 the state juvenile facilities and the projected impact of the proposed
20 standards on that capacity.

21 (~~(b) The secretary shall submit guidelines pertaining to the~~
22 ~~nature of the security to be imposed on youth placed in his or her~~
23 ~~custody based on the age, offense(s), and criminal history of the~~
24 ~~juvenile offender. Such guidelines shall be submitted to the~~
25 ~~legislature for its review no later than November 1st of each year. At~~
26 ~~the same time the secretary shall submit a report on security at~~
27 ~~juvenile facilities during the preceding year. The report shall~~
28 ~~include the number of escapes from each juvenile facility, the most~~
29 ~~serious offense for which each escapee had been confined, the number~~
30 ~~and nature of offenses found to have been committed by juveniles while~~
31 ~~on escape status, the number of authorized leaves granted, the number~~
32 ~~of failures to comply with leave requirements, the number and nature of~~
33 ~~offenses committed while on leave, and the number and nature of~~
34 ~~offenses committed by juveniles while in the community on minimum~~
35 ~~security status; to the extent this information is available to the~~
36 ~~secretary. The department shall include security status definitions in~~
37 ~~the security guidelines it submits to the legislature pursuant to this~~
38 ~~section.))~~

1 (2) In developing recommended disposition standards, the commission
2 shall emphasize confinement for violent and repeat offenders. The
3 commission shall also ensure increased judicial flexibility and
4 discretion, and emphasize alternatives to total confinement for
5 nonviolent, chemically dependent, or mentally ill offenders. The
6 commission's recommended disposition standards shall result in a
7 simplified sentencing system.

8 (3) In developing recommendations for the permissible ranges of
9 confinement under this section the commission shall be subject to the
10 following limitations:

11 (a) Where the maximum term in the range is ninety days or less, the
12 minimum term in the range may be no less than fifty percent of the
13 maximum term in the range;

14 (b) Where the maximum term in the range is greater than ninety days
15 but not greater than one year, the minimum term in the range may be no
16 less than seventy-five percent of the maximum term in the range;
17 ((and))

18 (c) Where the maximum term in the range is more than one year, the
19 minimum term in the range may be no less than eighty percent of the
20 maximum term in the range; and

21 (d) The seriousness of the offense shall be the most important
22 factor in determining the length of confinement. The offender's age
23 and criminal history should count as contributing, but less important
24 factors.

25 NEW SECTION. Sec. 12. A new section is added to chapter 13.40 RCW
26 to read as follows:

27 The secretary shall submit a report on security at juvenile
28 facilities during the preceding year. The report shall include the
29 number of escapes from each juvenile facility, the most serious offense
30 for which each escapee had been confined, the number and nature of
31 offenses found to have been committed by juveniles while on escape
32 status, the number of authorized leaves granted, the number of failures
33 to comply with leave requirements, the number and nature of offenses
34 committed while on leave, and the number and nature of offenses
35 committed by juveniles while in the community on minimum security
36 status; to the extent this information is available to the secretary.
37 The department shall include security status definitions in the report

1 it submits to the legislature pursuant to this section. The report
2 shall be submitted no later than December 15th of each year.

3 **Sec. 13.** RCW 13.40.210 and 1994 sp.s. c 77 s 527 are each amended
4 to read as follows:

5 (1) The secretary shall, except in the case of a juvenile committed
6 by a court to a term of confinement in a state institution outside the
7 appropriate standard range for the offense(s) for which the juvenile
8 was found to be guilty established pursuant to RCW 13.40.030, set a
9 release or discharge date for each juvenile committed to its custody.
10 The release or discharge date shall be within the prescribed range to
11 which a juvenile has been committed except as provided in RCW 13.40.320
12 concerning offenders the department determines are eligible for the
13 juvenile offender basic training camp program. Such dates shall be
14 determined prior to the expiration of sixty percent of a juvenile's
15 minimum term of confinement included within the prescribed range to
16 which the juvenile has been committed. The secretary shall release any
17 juvenile committed to the custody of the department within four
18 calendar days prior to the juvenile's release date or on the release
19 date set under this chapter. Days spent in the custody of the
20 department shall be tolled by any period of time during which a
21 juvenile has absented himself or herself from the department's
22 supervision without the prior approval of the secretary or the
23 secretary's designee.

24 (2) The secretary shall monitor the average daily population of the
25 state's juvenile residential facilities. When the secretary concludes
26 that in-residence population of residential facilities exceeds one
27 hundred five percent of the rated bed capacity specified in statute, or
28 in absence of such specification, as specified by the department in
29 rule, the secretary may recommend reductions to the governor. On
30 certification by the governor that the recommended reductions are
31 necessary, the secretary has authority to administratively release a
32 sufficient number of offenders to reduce in-residence population to one
33 hundred percent of rated bed capacity. The secretary shall release
34 those offenders who have served the greatest proportion of their
35 sentence. However, the secretary may deny release in a particular case
36 at the request of an offender, or if the secretary finds that there is
37 no responsible custodian, as determined by the department, to whom to
38 release the offender, or if the release of the offender would pose a

1 clear danger to society. The department shall notify the committing
2 court of the release at the time of release if any such early releases
3 have occurred as a result of excessive in-residence population. In no
4 event shall an offender adjudicated of a violent offense be granted
5 release under the provisions of this subsection.

6 (3) Following the juvenile's release under subsection (1) of this
7 section, the secretary may require the juvenile to comply with a
8 program of parole to be administered by the department in his or her
9 community which shall last no longer than eighteen months, except that
10 in the case of a juvenile sentenced for rape in the first or second
11 degree, rape of a child in the first or second degree, child
12 molestation in the first degree, or indecent liberties with forcible
13 compulsion, the period of parole shall be twenty-four months. A parole
14 program is mandatory for offenders released under subsection (2) of
15 this section. The secretary shall, for the period of parole,
16 facilitate the juvenile's reintegration into his or her community and
17 to further this goal shall require the juvenile to refrain from
18 possessing a firearm or using a deadly weapon and refrain from
19 committing new offenses and may require the juvenile to: (a) Undergo
20 available medical ~~((or))~~, psychiatric ~~((treatment))~~, drug and alcohol,
21 mental health, and other offense-related treatment services; (b) report
22 as directed to a parole officer and/or designee; (c) pursue a course of
23 study ~~((or))~~, vocational training, or employment; ~~((and))~~ (d) notify
24 the parole officer of the current address where he or she resides; (e)
25 be present at a particular address during specified hours; (f) remain
26 within prescribed geographical boundaries ~~((and notify the department~~
27 ~~of any change in his or her address))~~; (g) submit to electronic
28 monitoring; (h) refrain from using illegal drugs and alcohol, and
29 submit to random urinalysis when requested by the assigned parole
30 officer; and (i) refrain from contact with specific individuals or a
31 specified class of individuals. After termination of the parole
32 period, the juvenile shall be discharged from the department's
33 supervision.

34 (4)(a) The department may also modify parole for violation thereof.
35 If, after affording a juvenile all of the due process rights to which
36 he or she would be entitled if the juvenile were an adult, the
37 secretary finds that a juvenile has violated a condition of his or her
38 parole, the secretary shall order one of the following which is
39 reasonably likely to effectuate the purpose of the parole and to

1 protect the public: (i) Continued supervision under the same
2 conditions previously imposed; (ii) intensified supervision with
3 increased reporting requirements; (iii) additional conditions of
4 supervision authorized by this chapter; (iv) except as provided in
5 (a)(v) of this subsection, imposition of a period of confinement not to
6 exceed thirty days in a facility operated by or pursuant to a contract
7 with the state of Washington or any city or county for a portion of
8 each day or for a certain number of days each week with the balance of
9 the days or weeks spent under supervision; and (v) the secretary may
10 order any of the conditions or may return the offender to confinement
11 (~~in an institution~~) for the remainder of the sentence range if the
12 offense for which the offender was sentenced is rape in the first or
13 second degree, rape of a child in the first or second degree, child
14 molestation in the first degree, indecent liberties with forcible
15 compulsion, or a sex offense that is also a serious violent offense as
16 defined by RCW 9.94A.030.

17 (b) If the department finds that any juvenile in a program of
18 parole has possessed a firearm or used a deadly weapon during the
19 program of parole, the department shall modify the parole under (a) of
20 this subsection and confine the juvenile for at least thirty days.
21 Confinement shall be in a facility operated by or pursuant to a
22 contract with the state or any county.

23 (5) A parole officer of the department of social and health
24 services shall have the power to arrest a juvenile under his or her
25 supervision on the same grounds as a law enforcement officer would be
26 authorized to arrest the person.

27 (6) If so requested and approved under chapter 13.06 RCW, the
28 secretary shall permit a county or group of counties to perform
29 functions under subsections (3) through (5) of this section.

30 **Sec. 14.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
31 to read as follows:

32 The secretary, assistant secretary, or the secretary's designee
33 shall issue arrest warrants for juveniles who escape from department
34 residential custody or abscond from parole supervision or fail to meet
35 conditions of parole. These arrest warrants shall authorize any law
36 enforcement, probation and parole, or peace officer of this state, or
37 any other state where the juvenile is located, to arrest the juvenile

1 and to place the juvenile in physical custody pending the juvenile's
2 return to confinement in a state juvenile rehabilitation facility.

3 NEW SECTION. **Sec. 15.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 (1) When a middle offender with one hundred ten points or more is
6 found to have committed an offense that is not a violent or sex
7 offense, the court, on its own motion or the motion of the state or the
8 respondent, may order an examination by a chemical dependency counselor
9 from a chemical dependency treatment facility approved under chapter
10 70.96A RCW to determine if the youth is chemically dependent and
11 amenable to treatment.

12 (2) The report of the examination shall include at a minimum the
13 following: The respondent's version of the facts and the official
14 version of the facts, the respondent's offense history, an assessment
15 of drug-alcohol problems and previous treatment attempts, the
16 respondent's social, educational, and employment situation, and other
17 evaluation measures used. The report shall set forth the sources of
18 the examiner's information.

19 (3) The examiner shall assess and report regarding the respondent's
20 amenability to treatment and relative risk to the community. A
21 proposed treatment plan shall be provided and shall include, at a
22 minimum:

23 (a) Whether inpatient and/or outpatient treatment is recommended;

24 (b) Availability of appropriate treatment;

25 (c) Monitoring plans, including any requirements regarding living
26 conditions, lifestyle requirements, and monitoring by family members,
27 legal guardians, or others;

28 (d) Anticipated length of treatment; and

29 (e) Recommended crime-related prohibitions.

30 (4) The court on its own motion may order, or on a motion by the
31 state shall order, a second examination regarding the offender's
32 amenability to treatment. The evaluator shall be selected by the party
33 making the motion. The defendant shall pay the cost of any second
34 examination ordered unless the court finds the defendant to be indigent
35 in which case the state shall pay the cost.

36 (5)(a) After receipt of reports of the examination, the court shall
37 then consider whether the offender and the community will benefit from
38 use of this chemical dependent disposition alternative and consider the

1 victim's opinion whether the offender should receive a treatment
2 disposition under this section.

3 (b) If the court determines that this chemical dependent
4 disposition alternative is appropriate, then the court shall impose the
5 standard range for the offense, suspend execution of the disposition,
6 and place the offender on community supervision for up to one year. As
7 a condition of the suspended disposition, the court may impose the
8 conditions of community supervision and other conditions, including up
9 to thirty days of confinement and requirements that the offender do any
10 one or more of the following:

11 (i) Devote time to a specific education, employment, or occupation;

12 (ii) Undergo available outpatient drug/alcohol treatment and/or
13 inpatient drug/alcohol treatment not to exceed ninety days. For
14 purposes of this section, the sum of confinement time and inpatient
15 treatment may not exceed ninety days;

16 (iii) Remain within prescribed geographical boundaries and notify
17 the court or the probation counselor prior to any change in the
18 offender's address, education program, or employment;

19 (iv) Report as directed to the court and a probation counselor;

20 (v) Pay all court-ordered legal financial obligations, perform
21 community service, or any combination thereof;

22 (vi) Make restitution to the victim for the cost of any counseling
23 reasonably related to the offense; or

24 (vii) Refrain from using illegal drugs and alcohol and submit to
25 random urinalysis if requested.

26 (6) The drug/alcohol treatment provider shall submit monthly
27 reports on the respondent's progress in treatment to the court and the
28 parties. The reports shall reference the treatment plan and include at
29 a minimum the following: Dates of attendance, respondent's compliance
30 with requirements, treatment activities, the respondent's relative
31 progress in treatment, and any other material specified by the court at
32 the time of the disposition.

33 At the time of the disposition, the court may set treatment review
34 hearings as the court considers appropriate.

35 If the offender violates any condition of the disposition or the
36 court finds that the respondent is failing to make satisfactory
37 progress in treatment, the court may revoke the suspension and order
38 execution of the sentence. The court shall give credit for any

1 confinement time previously served if that confinement was for the
2 offense for which the suspension is being revoked.

3 (7) For purposes of this section, "victim" means any person who has
4 sustained emotional, psychological, physical, or financial injury to
5 person or property as a direct result of the crime charged.

6 (8) Whenever a juvenile offender is entitled to credit for time
7 spent in detention prior to a dispositional order, the dispositional
8 order shall specifically state the number of days of credit for time
9 served.

10 (9) In no case shall the term of confinement imposed by the court
11 at disposition exceed that to which an adult would be subjected for the
12 same offense.

13 **Sec. 16.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
14 as follows:

15 (1) All actions under this chapter shall be commenced and tried in
16 the county where any element of the offense was committed except as
17 otherwise specially provided by statute. In cases in which diversion
18 is provided by statute, venue is in the county in which the juvenile
19 resides or in the county in which any element of the offense was
20 committed.

21 (2) For juveniles whose standard range disposition would include
22 confinement in excess of thirty days, the case and copies of all legal
23 and social documents pertaining thereto may in the discretion of the
24 court be transferred to the county where the juvenile resides for a
25 disposition hearing. All costs and arrangements for care and
26 transportation of the juvenile in custody shall be the responsibility
27 of the receiving county as of the date of the transfer of the juvenile
28 to such county, unless the counties otherwise agree.

29 (3) The case and copies of all legal and social documents
30 pertaining thereto may in the discretion of the court be transferred to
31 the county in which the juvenile resides for supervision and
32 enforcement of the disposition order. The court of the receiving
33 county has jurisdiction to modify and enforce the disposition order.

34 (4) The court upon motion of any party or upon its own motion may,
35 at any time, transfer a proceeding to another juvenile court when there
36 is reason to believe that an impartial proceeding cannot be held in the
37 county in which the proceeding was begun.

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

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

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

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

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

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

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

18 (ii) Conviction in the pending prosecution is imminent;

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

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

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

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

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

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

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

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

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

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

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

13 Notification

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

16 (2) Decision to prosecute.

17 STANDARD:

18 Crimes against persons will be filed if sufficient admissible
19 evidence exists, which, when considered with the most plausible,
20 reasonably foreseeable defense that could be raised under the evidence,
21 would justify conviction by a reasonable and objective fact-finder.
22 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
23 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
24 9A.64.020 the prosecutor should avoid pre-filing agreements or
25 diversions intended to place the accused in a program of treatment or
26 counseling, so that treatment, if determined to be beneficial, can be
27 proved pursuant to RCW 13.40.160(5).

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

33 The categorization of crimes for these charging standards shall be
34 the same as found in RCW 9.94A.440(2).

35 The decision to prosecute or use diversion shall not be influenced
36 by the race, gender, religion, or creed of the respondent.

37 Selection of Charges/Degree of Charge

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

4 (a) Will significantly enhance the strength of the state's case at
5 trial; or

6 (b) Will result in restitution to all victims.

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

9 (a) Charging a higher degree;

10 (b) Charging additional counts.

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

17 The selection of charges and/or the degree of the charge shall not
18 be influenced by the race, gender, religion, or creed of the
19 respondent.

20 GUIDELINES/COMMENTARY:

21 Police Investigation

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

28 (1) The interviewing of all material witnesses, together with the
29 obtaining of written statements whenever possible;

30 (2) The completion of necessary laboratory tests; and

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

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

36 Exceptions

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

39 (1) Probable cause exists to believe the suspect is guilty; and

1 (2) The suspect presents a danger to the community or is likely to
2 flee if not apprehended; or

3 (3) The arrest of the suspect is necessary to complete the
4 investigation of the crime.

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

10 Investigation Techniques

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

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

17 Prefiling Discussions with Defendant

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

21 PLEA DISPOSITIONS:

22 Standard

23 (1) Except as provided in subsection (2) of this section, a
24 respondent will normally be expected to plead guilty to the charge or
25 charges which adequately describe the nature of his or her criminal
26 conduct or go to trial.

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

31 (a) Evidentiary problems which make conviction of the original
32 charges doubtful;

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

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

38 (d) The discovery of facts which mitigate the seriousness of the
39 respondent's conduct;

- 1 (e) The correction of errors in the initial charging decision;
- 2 (f) The respondent's history with respect to criminal activity;
- 3 (g) The nature and seriousness of the offense or offenses charged;
- 4 (h) The probable effect of witnesses.

5 (3) No plea agreement shall be influenced by the race, gender,
6 religion, or creed of the respondent. This includes but is not limited
7 to the prosecutor's decision to utilize such disposition alternatives
8 as "Option B," the Special Sex Offender Disposition Alternative, and
9 manifest injustice.

10 DISPOSITION RECOMMENDATIONS:

11 Standard

12 The prosecutor may reach an agreement regarding disposition
13 recommendations.

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

--- END ---