WISCONSIN SENTENCING COMMISSION

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Comparison of Sentence Lengths to Recommended Ranges

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Under the Wisconsin sentencing guidelines system, judges are asked to complete worksheets on 11 major felony offenses. On the worksheets, judges must rate both the severity of the offense (mitigated, intermediate, or aggravated) as well as the risk assessment of the offender (lesser, medium, or high). These ratings—based on factors the judge is asked to consider—are then matched to a cell on a 3x3 grid containing recommended sentence ranges.[1] At this point, judges are then asked to consider additional "adjustment" factors which may lead to sentences outside the cell indicated. This snapshot examines the frequency with which actual sentences differ from those indicated on the grids, and whether these sentences were above or below the grid score.

Recommended Sentence Ranges vs. Actual Sentence Lengths

By design, the 9-cell grid on the guidelines worksheet maintains judicial flexibility by recommending relatively broad sentence ranges. Its purpose is to provide judges with an additional tool to assist in their decision-making process. Yet due to the advisory nature of the guidelines system, adherence to the ranges is neither absolute nor mandatory. As noted, "adjustment" factors may need to be considered after the guidelines ranges. As illustrated in Chart 1, sentence lengths matched recommended ranges in 69% of the cases.[2] Of the remaining 31% of cases that did not match, 14% were sentenced above the recommended ranges and 17% were sentenced below. Although these percentages are somewhat similar, they nevertheless show a greater tendency for adjustment factors to mitigate the sentence rather than aggravate it.

Chart 1: Percent of Sentences Matching Ranges

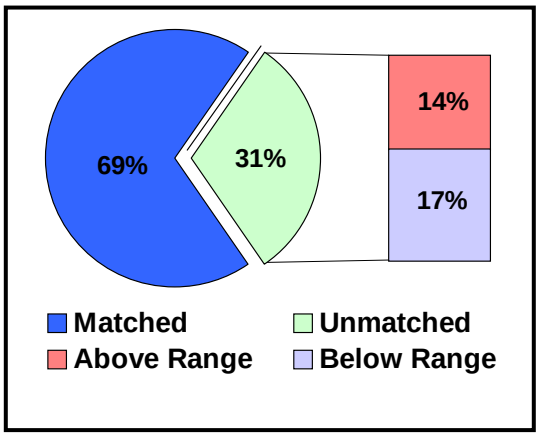
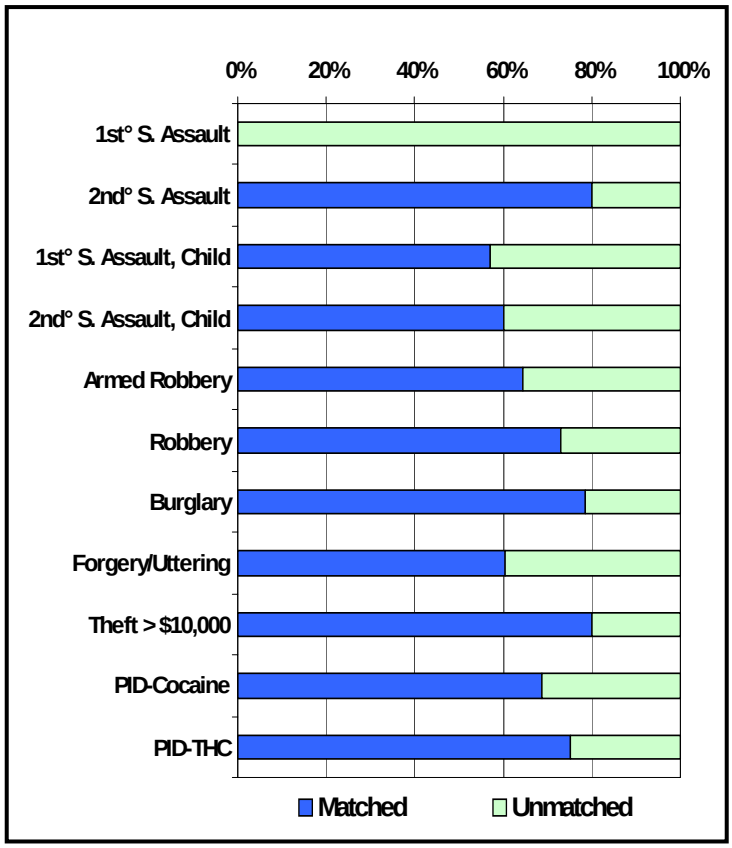


Chart 2 provides a comparison of sentences and ranges by each of the 11 guidelines offenses. It shows that—disregarding *1st* and *2nd Degree Sexual Assault* which have too few cases in the database to conduct a meaningfully analysis—*1st* and *2nd Degree*

Chart 2: Percent of Sentences Matching Ranges by Offense Type



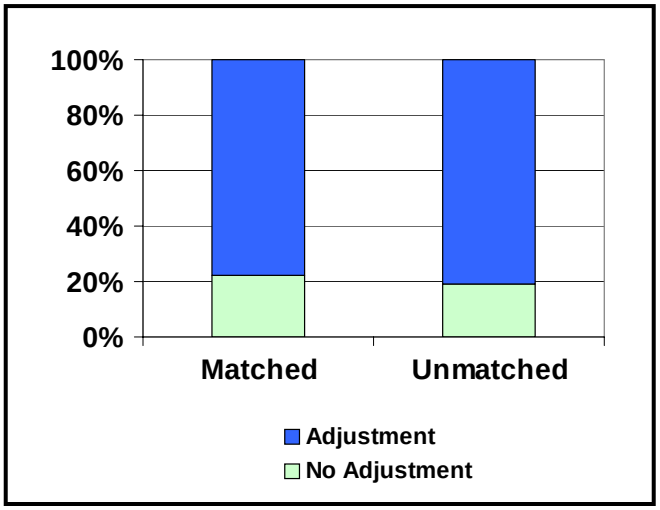
Sexual Assault of a Child cases show the highest deviation from the recommended ranges. Nearly 41% of all of these cases are sentenced outside of the recommended sentence ranges. These cases are followed next by *Forgery/Uttering* (40%). By contrast, only 22% of the *Burglary* worksheets were outside the *Burglary* grid.

In addition to a comparison of sentence lengths and recommended ranges, there is also a need to provide an examination of sentence "adjustments."

The Impact of Adjustments at Sentencing

Of those cases where the sentence did not match the recommended range, 81% had an adjustment checked on the guidelines worksheet. When sentence lengths did match, 78% of the worksheets had an adjustment checked. Although these latter sentences did not end up outside of the grid recommendation, it is possible the sentence given was greater than originally intended before consideration of the "adjustment" factors but still remained within the grid range. Similarly, as illustrated in *Chart 3*, if an adjustment is checked the sentence falls within the grid score less often (72% versus 68%).

Chart 3: Percent of Sentences Matching Ranges by Adjustments



Also, there were a percentage of cases that fell outside the grid when no adjustments were checked. 19% of the cases in which the grids did not match had no adjustments checked. This might indicate that factors were possibly being taken into account other than those which were listed on the worksheet, or that the worksheets are not being filled out beyond the grid in some cases.

This is of interest to the Sentencing Commission because it shows that there is some relationship between the arrangements of the sections on the worksheets. In asking the judges to indicate a sentence range before they mark alterations that need to be made, the concept of adjustments acting as sequential modifiers to the sentence lengths in the grids is upheld.

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[1] These "adjustment" factors include such matters as "effect of multiple counts", "acceptance of responsibility", "cooperation with authorities," as well as others. Previous Snapshots have discussed the frequency of use of these factors and can be found in the reports section of the Commission's website, Hhttp://wsc.wi.govH.

[2] This report is based on 590 cases received by the Commission between June 2003 and June 2005. It only includes cases with a single conviction that were sentenced to prison and had a cell checked on the 3x3 grid.

The Wisconsin Sentencing Commission periodically publishes "Sentencing in Wisconsin" to provide the public, state courts, and policymakers data on state sentencing practices. For other publications, or more information about the Commission, see its website, http://wsc.wi.gov