

Monitoring Sentencing Reform

A Sentencing Commission Staff Report

By Fritz Rauschenberg

Number Four
January 18, 2001

Ohio Criminal Sentencing Commission
Chief Justice Thomas J. Moyer, Chairman
David Diroll, Executive Director

INTRODUCTION

Section 181.25 of the Revised Code requires the Sentencing Commission to monitor the impact that sentencing reform (Senate Bill 2 of the 121st General Assembly) has had on state and local government and report periodically. This is the fourth report. The previous ones were issued January of 1997, 1998, and 1999.

SB 2 Background

S.B. 2 and its companion legislation changed hundreds of sections of the Revised Code and reworked the way that judges sentence convicted felons. It became effective on July 1, 1996. Some key provisions of the act are:

- **"Truth in Sentencing"** -- The sentence imposed by the judge in open court is the sentence served by the offender. "Good time" as previously known was abolished. For those sentenced under S.B. 2, parole release as previously known was abolished.
- **Tougher sanctions for high level offenders** -- Especially repeat violent offenders. Judges are guided toward prison on high level offenders. Judges can guarantee 20 years in prison on serious repeat violent offenders. Limits on consecutive sentences were removed.
- **Community sanctions at the low end** -- Judges are guided to sentence low level offenders without histories of violence, imprisonment, or drug trafficking to sanctions within their community. Additional state funding was made available for expanding community sanctions.
- **Appellate review of sentencing** -- In certain limited circumstances, the prosecutor or offender is able to appeal a sentence imposed by a judge.

There are many other facets of Senate Bill 2, and minor adjustments have been made recently. The Sentencing Commission and its staff are available to answer any

questions that you might have. They can be reached at 614-466-1833.

Timing and Attribution

The new law became effective for crimes committed starting on July 1, 1996. Originally, it took longer than anticipated for the new S.B. 2 offenders to work their way through the system and get to prison. It was nine months after the effective date before the number of offenders entering prison under S.B. 2 exceeded the number coming in under previous law. Now, the vast majority of offenders are coming in under the new law. Presumably most of those coming in under the old law are probation violators. Also, now we have a sizeable number of offenders who have completed their prison terms under S.B. 2, making it possible to study judicial release and post-release control.

On the other hand, now that there has been several years experience with the new sentencing law, it is ironically more difficult to attribute changes in patterns in the justice system to it. Changes observed can be attributed to S.B. 2. But they also could be due to separate legislation, such as the felony drunken driving bill (S.B. 166, and SB 22) and sex offender registration (H.B. 180), both of which took effect in October, 1996. Also attitudes of police, prosecutors, defense attorneys, judges, prison officials, and the offenders may have changed independently of S.B. 2. As S.B. 2 was being implemented, the crime rate dropped, and the Parole Board changed their procedures for pre S.B. 2 cases.

Methodology

This report is not a formal, academic, impact evaluation. That will come later (see the discussion at the end of this report). It does, however, attempt to gauge the effect of S.B. 2 on the justice system by using comparison groups and before-after descriptions of available data.

IS S.B. 2 MEETING ITS GOALS?

Here is some of what the Sentencing Commission anticipated from S.B. 2 and related legislative and budget measures:

- The prison population would decline initially as repeat petty thieves and lower level felons are steered into expanded community sanctions. Over time, the population would grow again, but at a slower rate than before S.B. 2.
- Those sentenced to prison would receive longer real sentences and be more dangerous, on average, than those who went under former law.
- Common pleas court caseloads would fall somewhat and misdemeanor court caseloads would increase somewhat due largely to the change in the felony theft law.
- There would not be a significant change in the number of jury trials under S.B. 2.
- More offenders, particularly at the lower felony levels, would be placed into community sanctions rather than prison.
- Sentencing law changes would not mean longer stays in local jails awaiting trials and sentencing.
- Additional misdemeanants might end up in jail. However, with additional state funding for community misdemeanor programs, the net effect on jail space would not be that dramatic.
- The number of offenders coming out of prison under some type of supervision would increase.
- With its guided sentencing, changes in drug law, and appellate review, racial disparity in the Ohio prison system would be eased, and counties would be more consistent in how offenders are sentenced.
- Even though a new type of appellate review was created by S.B. 2, appellate courts would not be deluged with appeals under the new law. And there would be reimbursement to counties from the state if the appeals became too fiscally burdensome.

- Adding the jury option of life imprisonment without parole might change the number of death sentences handed out.
- The Commission anticipated some criticism of the new law from judges.

Here is what has happened to date.

- The prison population has leveled, in part because of the changes regarding repeat petty thieves, guidance on sentencing lower level felons, and increased funding for, and availability of, community sentencing options. However, the decline has not been as great as anticipated.
- More serious felons comprise a higher share of prison intake than pre S.B. 2.
- The percentage of prison intake for the highest felony classes (F-1s, F-2s, and F-3s) is larger under S.B. 2 than under prior law.
- Common pleas court caseloads have fallen somewhat. S.B. 2 might explain some of the difference, but other factors, such as a lower crime rate, are significant. We anticipated some increase in misdemeanor caseloads, but not as great as actually occurred.
- The percent of cases resolved by jury trial has stayed the same.
- The proportion of felons to local punishments, as opposed to State prison continues to grow slightly, largely because of greater funding for community sanctions.
- S.B. 2 has not increased the time offenders spend in jail awaiting trial, sentencing, and transfer to prison.

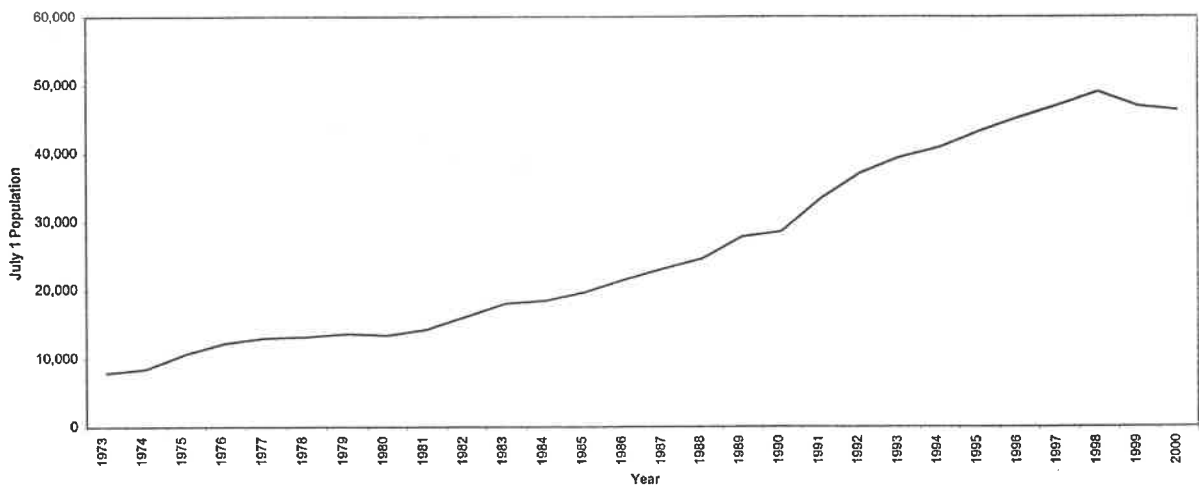
- The number of offenders coming out of prison under supervision has increased.
- The number of appeals under the new law is surprisingly low. Money appropriated for additional appeals was returned to the State General Revenue Fund, and has not been reappropriated.
- A survey of common pleas judges found that 55% agreed or strongly agreed that S.B. 2's guidance is "good for the sentencing process."

The following analysis looks more carefully at these patterns.

Prison Population

When S.B. 2 was passed, the Sentencing Commission staff predicted that the prison population would fall initially, and then increase at a slower rate than previously. This graph shows the July 1st prison population. Note that the population has declined following a sustained period of growth.

Ohio's Prison Population since 1973



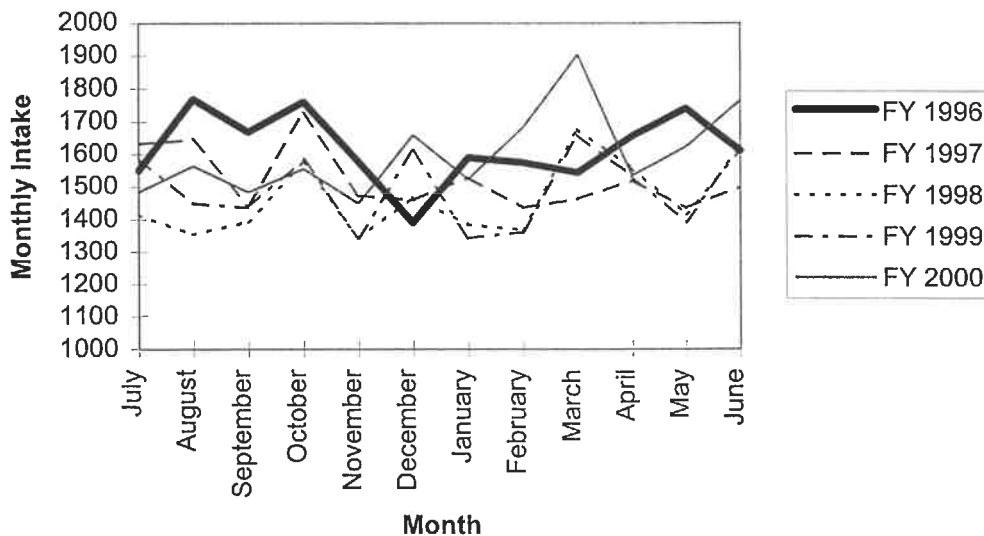
Prison Intake

Watching the number of offenders coming into prison is a good way of monitoring what is going on in the justice system as a whole. Someone's going to prison is the culmination of decisions by victims, police, prosecutors, defenders, judges, and of course offenders themselves. Because so many people are involved in the process, attributing a change in prison intake to any one factor (or statutory change) is very difficult.

Before S.B. 2 went into effect, the Commission's staff projected what the impact on prison intake would be. It projected an initial decrease of 4,140 offenders. Those offenders would be punished in the community under the community sanction provision of S.B. 2.

There has been a reduction in prison intake since the effective date of S.B. 2. But, the impact has not been as large as expected. The following table shows the month by month prison intake starting the twelve months before S.B. 2 went into effect (FY 1996). Note that in the years following FY 1996 (the last year before S.B. 2's effective date), prison intake has generally been lower.

Prison Intake - Pre and Post S.B. 2



The Crowd Going to Prison is Tougher than Before S.B. 2

S.B. 2 intended to increase the proportion of offenders who came to prison on a high level felony. In FY 1996 (just before S.B. 2), 26.7% of the prison intake was for an F-1, F-2, or F-3 indeterminate offense. In FY 1999, it was 36.9% for comparable offenses. Also note that the proportion of intake that are low level felons has declined.

**Higher Level Prison Intake by Offense Level
Pre and post S.B. 2**

Worse Offense Level at Intake *	FY 1996 % (Pre S.B. 2)	FY 1999 %
Death	0.08%	0.05%
Life	1.30%	1.00%
F1/F1	7.80%	7.52%
F2/F2	12.55%	10.31%
F3 Indef/F3	4.87%	17.05%
Total High Level Felons	26.60%	35.93%

**Lower Level Prison Intake by Offense Level
Pre and post S.B. 2**

Worse Offense Level at Intake *	FY 1996 % (Pre S.B. 2)	FY 1999 %
F3 Def, F4 Indef/F4	31.16%	28.75%
F4 Def/F5	42.10%	35.32%
Total Low Level Felons	73.26%	64.07%

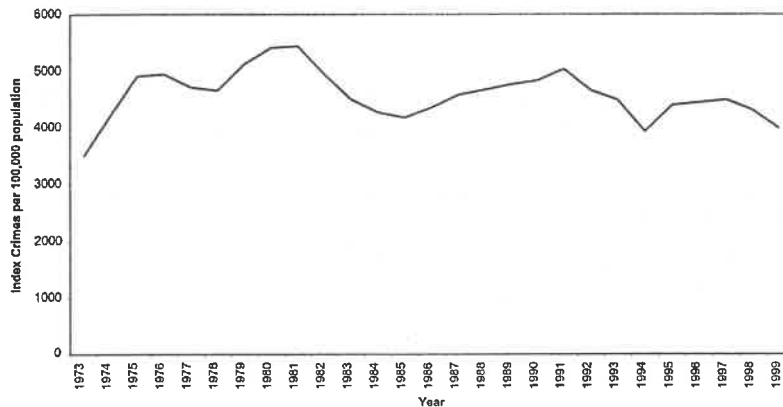
* Where two levels appear, the first is the level before S.B. 2 and the second is the equivalent level after S.B. 2 reordered offenses into 5 classes.

Crime Rates

One of the things that has happened that makes analysis of S.B. 2 difficult is the drop in the violent crime rate that has been going on since 1991. Some of the effects that we observe in this monitoring report can be attributed to the changes in law. But other changes could be due to the

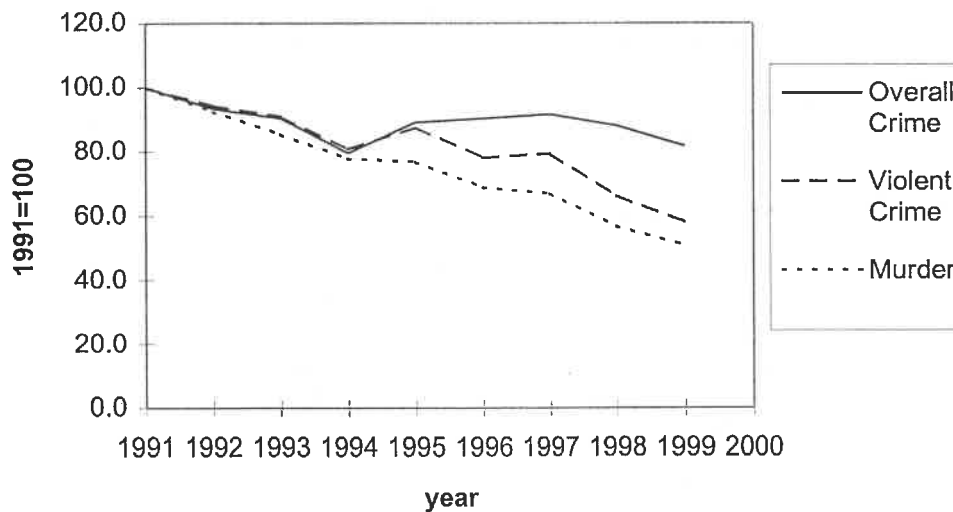
declining crime rate. While it would take a much more sophisticated study to be sure, it is possible that some of the recent decline in Ohio's crime rate is due to the effectiveness of S.B. 2.

Crime Rate in Ohio Since 1973



This graph shows the relative change in the components of the crime rate since the 1991 peak:

Ohio Reported Crime, Violent Crime, Murder Since 1991



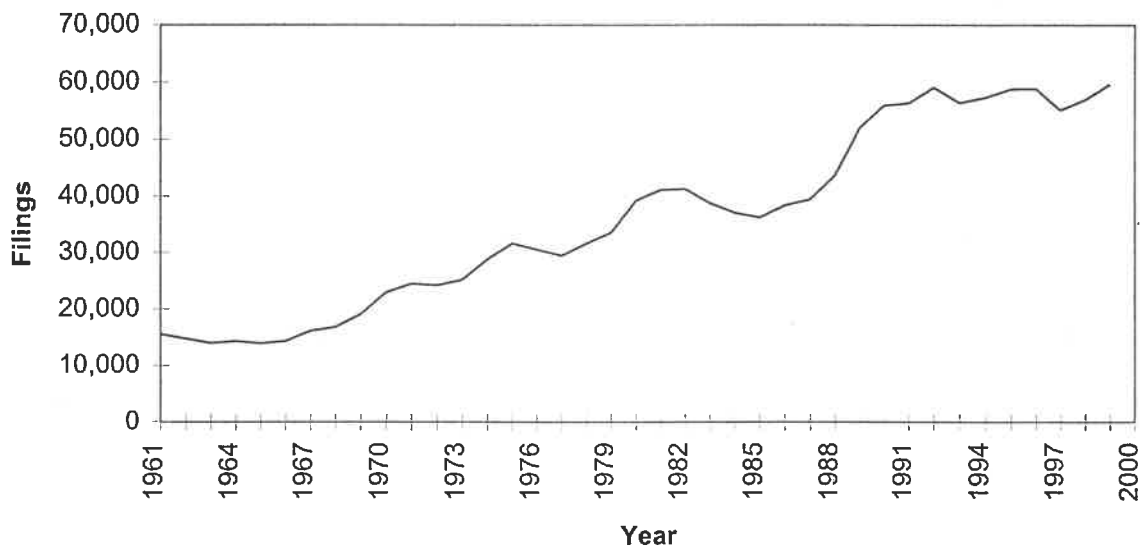
Note that violent crime has fallen faster than overall crime. Murder has fallen faster still, continuing to fall

even when violent crime inched back up in the mid 1990's. One possible explanation of this continued drop in the murder rate is the passage of the domestic violence preferred arrest law in 1995, since many murders occur during domestic disputes.

Court Filings

Prison intake is down, in part, because court filings are down as well. In 1995 (the last full calendar year under pre-S.B. 2 law), there were 58,791 cases filed in common pleas courts statewide. In 1997 (the first full calendar year under S.B. 2) there were 55,162, a 6.2% decline. This graph shows common pleas case filings since 1961.

Common Pleas Criminal Filings Since 1961

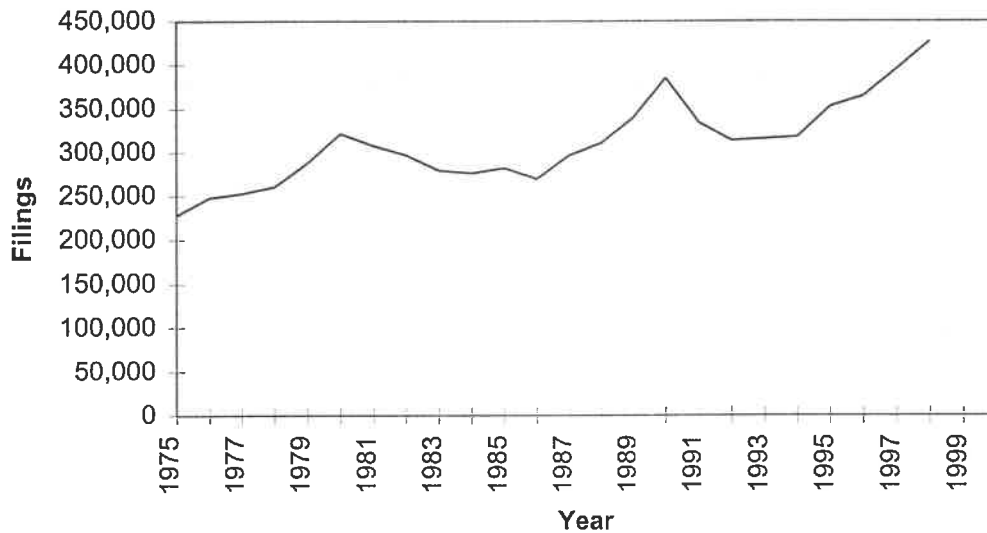


In the meantime, Sentencing Commission staff projected that the number of criminal misdemeanors would increase by an amount similar to the decline in common pleas cases. In 1995, there were 352,415 criminal (as opposed to traffic) misdemeanors filed in municipal and county courts. We do not have good caseload records from mayor's courts. In 1997, there were 394,856 cases, an increase of 42,441 or 12.0%. While the change in the theft law is a factor, this is far more cases than could be attributed to that change alone. Another possible explanation for this is the

increased number of domestic violence arrests because of the preferred arrest law. Also, with federal assistance, there are considerably more police officers in Ohio (the number has grown 25.4% since 1995). This means more arrests for misdemeanor crimes - especially when the more serious index crime rate is falling.

This graph shows municipal and county court caseloads for criminal misdemeanors since 1975. Note the rise in recent years:

Criminal Misdemeanor Filings Since 1975



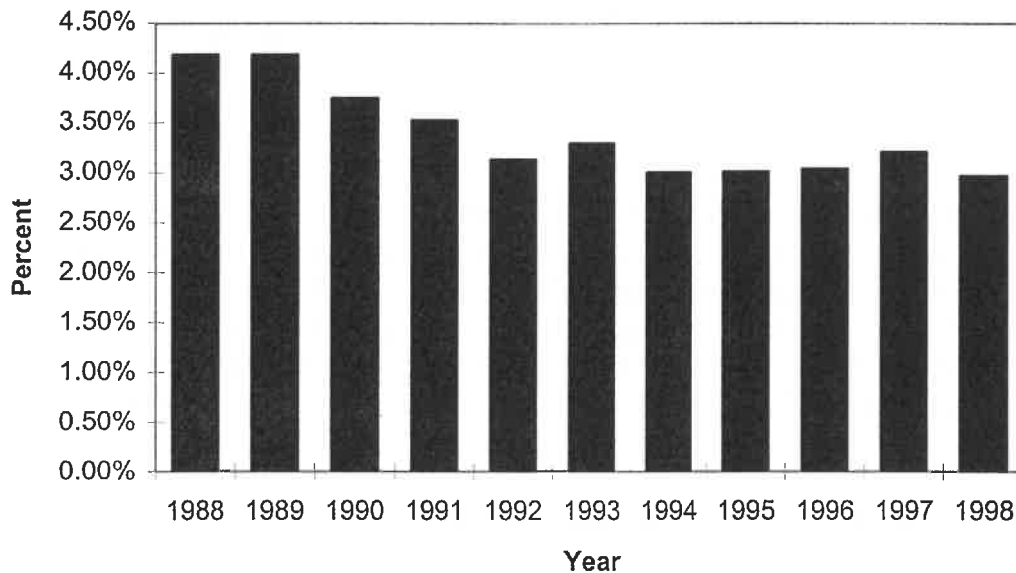
Jury Trials

One of the questions raised during the debate over S.B. 2 was whether it would cause a change in the number of jury trials. One theory was that, because there was guidance against prison for some low level felons, there would be less of an incentive for a defendant to plea bargain a case, and more incentive to go to trial. Also, some felt that the tough mandatory terms for repeat violent offenders and major drug offender would force more jury trials. Since jury trials are expensive and slow, the changes could affect system efficiency.

The Commission did not anticipate any significant change in the number of jury trials. We felt that defendants would plead guilty about as often as before, even with the changes. And, while S.B. 2 changed the nature of mandatory prison terms, the total number of offenders facing mandatorics remained about the same as under former law.

The Supreme Court's *Ohio Courts Summary* tracks cases that terminate in jury trials. The following graph shows over the last several years, the proportion of jury trials to case filings. Note that the percent in 1997 and 1998 is little changed from that of 1995 and 1996, and is still less than that of the late 1980's and early 1990's.

Common Pleas Court Percent Jury Trials

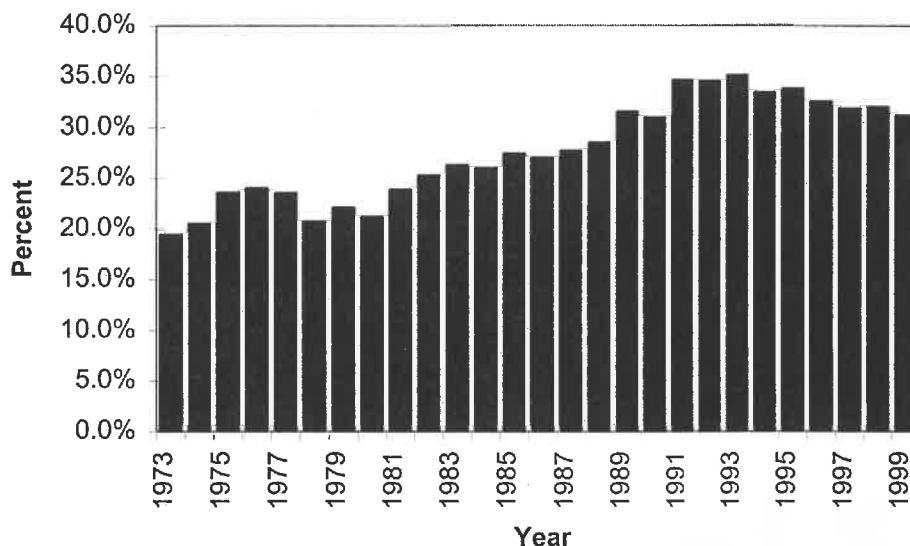


Imprisonment Decisions

Combining court caseloads with prison intake gives the proportion of common pleas cases result in a prison sentence. This is the most consistent measure available for how often judges send offenders to prison.

As the next graph shows, the proportion going to prison increased over the years, peaking in the late 1980's and early 1990's. Since then, the ratio of prison intake to common pleas court filings has decreased.

Prison Intake v. Common Pleas Filings Since 1973



Since the decrease started before the effective date of S.B. 2, the initial decline can be attributed to the increase in community corrections spending that started in the 1990s. However, codifying a continuum of sanctions in S.B. 2 and the successful push for greater community corrections planning and funding logically have contributed to the trend.

Death Penalty and Aggravated Murder

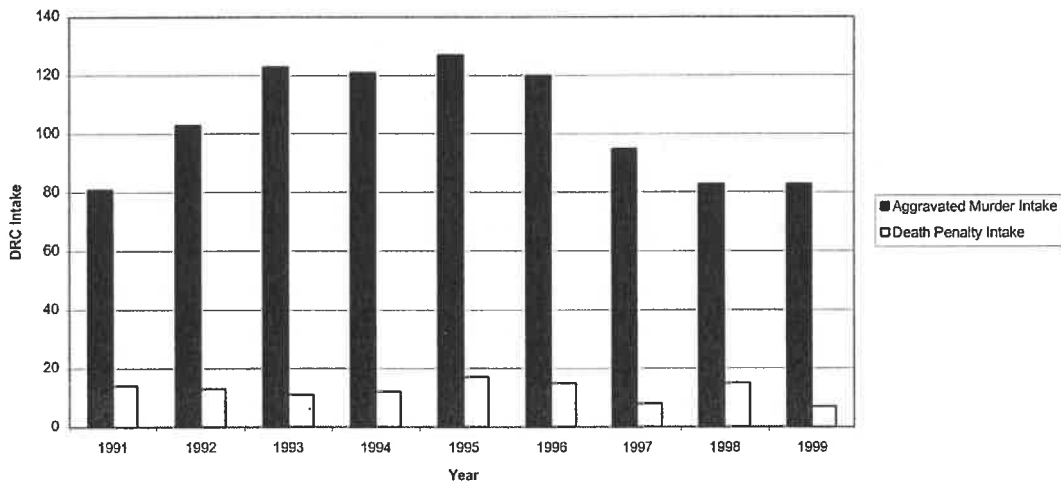
S.B. 2 included one death penalty related provision that was not part of the Sentencing Commission's original recommendations, but was placed in the law by the General Assembly. The provision allows juries to consider the option of life without parole during the penalty phase of death penalty deliberations.

Giving jurors this option would in theory reduce the number of cases where death is actually imposed, because juries could elect life without parole instead of death, but could also elect this option instead of the life with parole eligibility in 30 years option.

So what has happened? It is difficult to say. The number of cases where an offender is sentenced to death is very few, so it is tough to spot trends. One or two cases can skew the analysis. Also the declining homicide rate probably has resulted in fewer aggravated murder cases eligible for death penalty consideration.

This chart shows the number of offenders coming into the DRC for Aggravated Murder, along with the number who come in with a death sentence. Note that the number of death sentences has not changed much, and that the number of Aggravated Murder offenders has declined.

**Death Penalty and Aggravated Murder
Since 1991**



Jail Crowding

Many feared that the changes in S.B. 2 related to low level felons, and the repeat misdemeanor offenders would put additional pressure on already crowded jails. In response the Sentencing Commission recommended and the General Assembly approved a budget that had a considerable increase in funding for community corrections programs that divert people from jails. This new funding mechanism is very popular with counties applying for community correction money.

So have more offenders found themselves in county jails because of S.B. 2? The answer to that question is difficult, and will require data analysis beyond this current report. However, a basic sense can be found by looking at jail data that is reported to DRC's Bureau of Adult Detention.

This table shows the capacity and average daily population for full service and minimum security jails in Ohio. Notice that the percent of capacity has increased each year, around the effective date of S.B. 2. This increase could be due to S.B. 2. However, it could also be due to the change in state law regarding arresting domestic violence perpetrators, the continued toughening of the drunken driving laws, and a post S.B. 2 increase in jail time credit.

Year	Full Service and MSJ Capacity	Average Daily Population	Percent of Capacity
1995	14,811	12,793	86.4%
1996	14,773	12,935	87.6%
1997	15,631	14,106	90.2%
1998	16,894	15,694	92.9%

The Sentencing Commission staff will work on a more complete analysis of the impact of S.B. 2 on jails in the coming months. Also, we will continue to monitor the impact that the felony drunken driver law has had on jails.

Jail Time Credit

S.B. 2 sets forth purposes and factors to be considered in every case, and guides judges based on the felony level involved. Some observers feared that S.B. 2 would slow the process, leading to longer stays in jail awaiting trial, sentencing, and transfer to prison for those who do not make bail. The Commission felt these delays would be minimal.

The best measure of these delays is the amount of jail time credit given to inmates entering prisons. (By law, an inmate's prison sentence must be reduced by time already served in jail awaiting trial, sentencing, and transfer to prison.)

To test this, we looked at the average jail time credit for offenders coming into prison during FY 1996 (just before S.B. 2's effective date), and compared it to the average jail time credit for S.B. 2 cases in FY 1998. The results were similar (73.1 days in FY 1996 versus 74.8 days in FY 1998). However, in FY 1999, well after S.B. 2 went into effect, the average jail time credit for an inmate coming into DRC had risen to 84.61 days.

Release Decisions and Post Release Control

Now that we have 3½ years worth of experience with S.B. 2, we can look at prison release data to analyze the key issue of how inmates complete their prison terms. S.B. 2 limited the Parole releases to those serving life sentences. It also replaced shock probation with judicial release, and allowed the Parole Board to provide for supervision of those who finished their stated prison terms.

This table shows the offender releases for FY 1996 and CY 1999 (the most recent year available). To simplify the analysis, the table focuses on the primary release mechanisms. Other ways an offender can be released (appeal bond, pardon, death, escape, transitional control) have been excluded because they are atypical, and the reports generated by DRC with release information do not distinguish between S.B. 2 and pre-S.B. 2 offenders.

Offender Releases, S.B. 2 and Pre S.B. 2

	FY 1996		CY 1999	
Judicial Release	0	0.0%	1,481	11.5%
Stated Term + Post Release Control	0	0.0%	5,688	44.2%
Stated Prison Term, No Post Release Control	0	0.0%	5,682	44.3%
Shock Probation	2,538	14.4%	364	4.0%
Parole	3,331	18.9%	6,069	65.9%
Shock Parole	356	2.0%	81	0.9%
Expiration of Definite Sentence	11,375	64.6%	2,701	29.3%

Note that under S.B. 2, 55.7% of the offenders coming out of prison in CY 1999 received some sort of supervision, either post-release control or judicial release. This compares to FY 1996 under pre-S.B. 2 law, when only 35.3% of the offenders coming out of prison were supervised.

Felony OMVI Law

The Sentencing Commission staff is closely monitoring the impact of the felony drunken driving (OMVI) law that went into effect in October of 1996. Under it, a fifth OMVI within six years carries a mandatory prison term. Formerly, these offenders were held in local jails. Effective May, 2000, S.B. 22 allowed judges to send a fourth time OMVI offender (first time felon) to prison.

Moreover, since chronic drunken drivers, on average, have the longest stays in local jails, the felony OMVI law eventually should free significant local jail space, while increasing the prison population.

When we looked at records of the Bureau of Motor Vehicles, we estimated there would be 3,300 offenders per year eligible for a mandatory prison term. There have not been nearly so many offenders going to prison. During FY 1997, 13 came to prison, during FY 1998 it was 81. There were 124 in FY 1999.

That there are so few compared to the projection is partially due to the fact the offender must have a second felony level drunken driving offense in order to get the mandatory prison term. That has taken longer than expected, although we now have records for over three years to assess the law's effectiveness.

Absent other changes in the way the behavior is handled locally, there should be more drunken drivers coming into prison. We infer that arrest, charging, and plea bargaining practices explain the discrepancy.

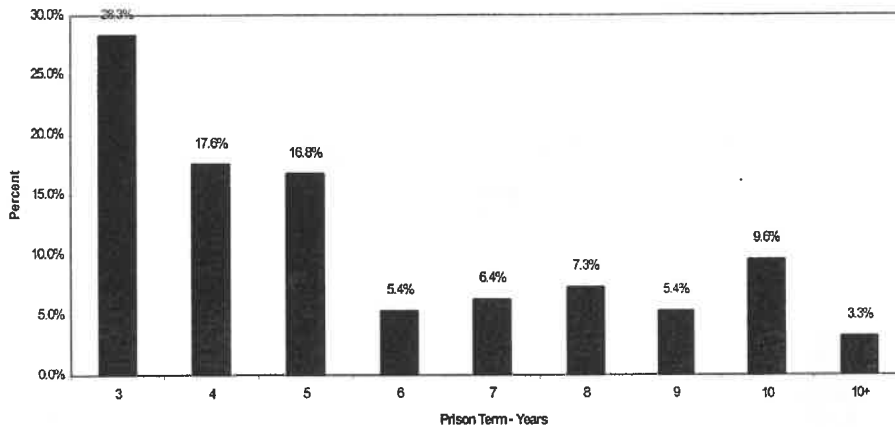
There may be fewer offenders committing their fifth offense because of the deterrent value of a felony conviction and prison term. However, it is more likely that the local justice system is adjusting and informally diverting

offenders away from a possible prison sentence. This issue needs more study.

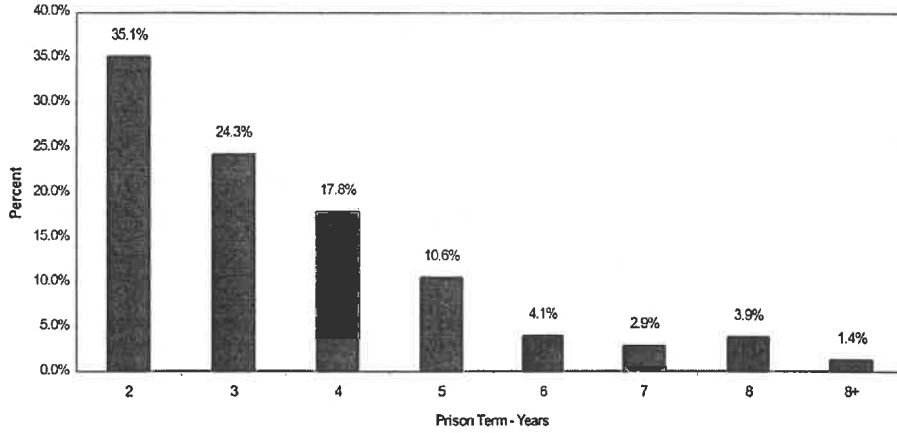
Where are Judges Falling in the Felony Ranges?

One of the most difficult things in projecting the impact of S.B. 2 on prison populations was where judges would fall in the newly created sentencing ranges. Now with several years of data we have a pretty good sense of what is happening. The following graphs show where judges have fallen in the prison term ranges on offenders with single offenses for each felony level during FY 1999:

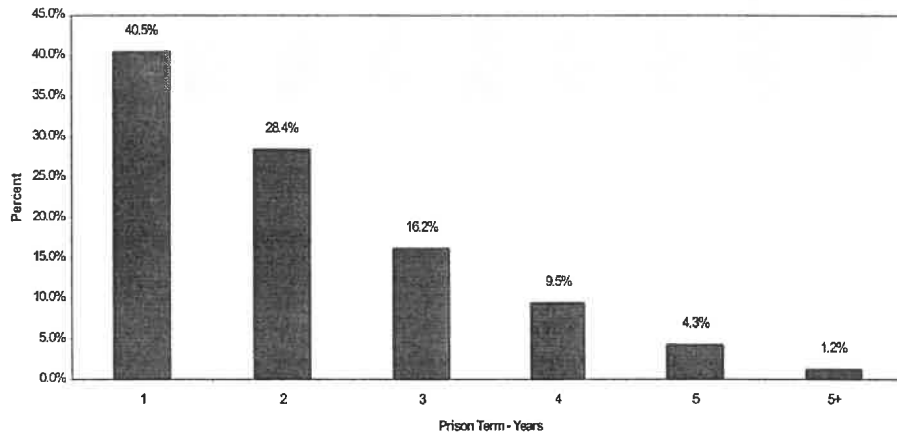
**F1 Prison Sentencing Pattern
FY 1999**



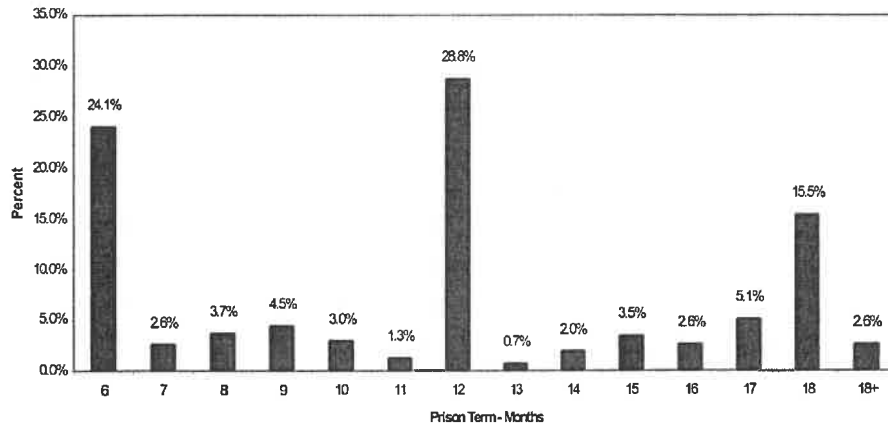
F2 Prison Sentencing Pattern FY 1999



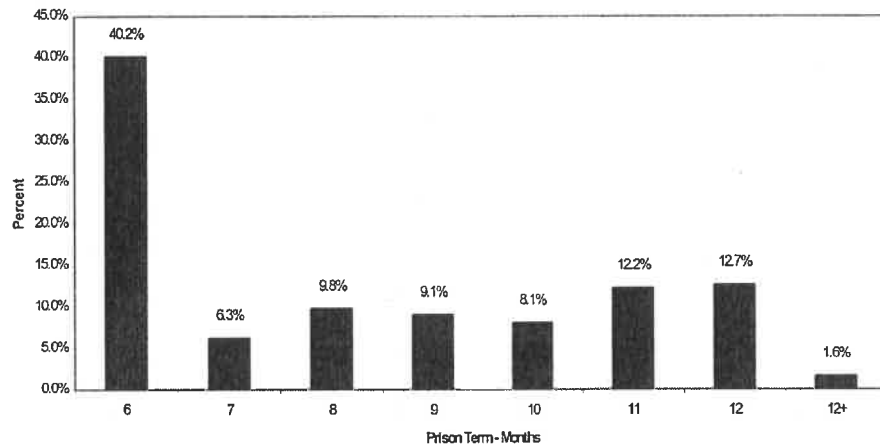
F3 Prison Sentencing Pattern FY 1999



F4 Prison Sentencing Pattern FY 1999



F5 Prison Sentencing Pattern FY 1999



Note that judges are not disproportionately using one step below the maximum, as some had predicted, in order to avoid potential appeals. Also note that these distributions are very similar to those reported in the past.

Appeals

As S.B. 2 was being considered, there was a great deal of interest in the number of appeals that there would be under the new appellate review provisions. Money was set aside, and a special Felony Sentencing Appeal Cost Oversight Committee was created in statute. The Commission's staff monitored appellate court caseloads closely to see if there was a big jump. To just about everyone's surprise, there have been very few appeals, especially given the number of offenders who are coming into prison with a sentence that gives them an appeal of right.

In April of 1998, the Felony Sentencing Appeal Cost Oversight Committee met to look at the possibility of distributing state money to counties to reimburse them for the cost of appeals due to S.B. 2. The FY 1998-1999 budget contained \$2 million per year to cover these costs. The Committee decided that there had not been enough appeals in FY 1998 to justify creating a mechanism to spend the money, and returned the appropriation to the state General Revenue Fund.

Racial Disparity

This issue of race and sentencing is of great interest to academics and practitioners who study the criminal justice system. The interest is caused by the numerical disparity in Ohio's prison system. 54.1% of the prison intake was black in 1999, while blacks made up about 11.6% of Ohio's population.

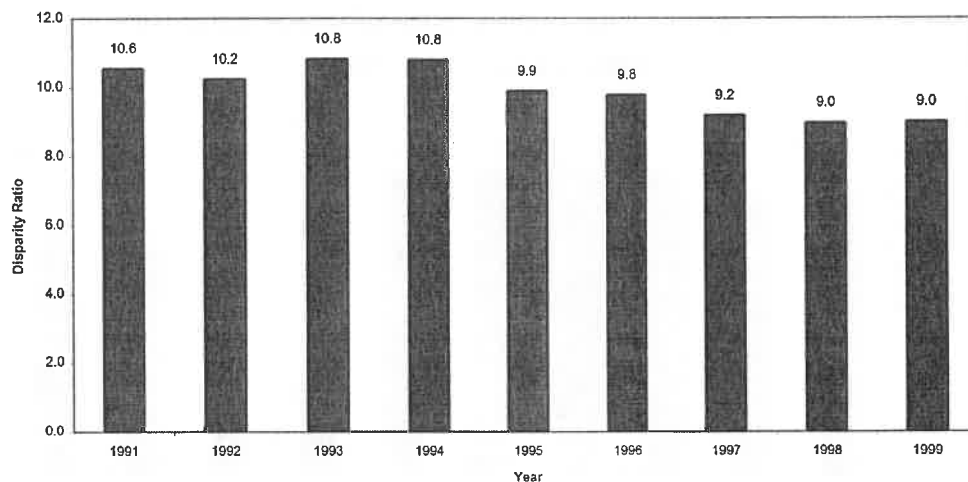
The Sentencing Commission staff took a rigorous empirical look at disparity in sentencing in 1993. We found that a great deal of the observed numerical disparity can be explained by legal factors such as arrest, criminal history, and level of offense. That report was criticized by the Supreme Court's Commission on Racial Fairness, that focused on the problems of perceived unfairness in the justice system.

S.B. 2 tried to explicitly address the issue of racial disparity by making it clear in the law that race was an inappropriate basis for sentencing and creating an appellate mechanism to enforce it. In more subtle ways, S.B. 2 reduced the direct impact of prior records in drug and theft cases which can get minority offenders (who often have longer criminal histories) in more trouble faster.

Disparity can be measured. In studying the degree of racial disparity, researchers can use what is called a "disparity ratio" which is the ratio of the black incarceration rate to the white incarceration rate. For example, in Ohio the black prison intake rate during 1999 was 757.1 per 100,000 population. For whites, the rate was 84.0 per 100,000. The ratio of the two rates was 9.0 (757.1 divided by 84.0). This means a black Ohioan is nine times as likely to end up in prison as a white person.

The ratio changes over time, and to study S.B. 2, we looked at the disparity ratio since 1991. Note that the ratio has fallen from as high as 10.8 in 1993 and 1994, to 9.0 in 1998 and 1999.

Disparity Ratio in Ohio's Prisons since 1991



Of course, disparity ratios only show numerical disparity. There is more to explaining disparity than looking at disparity ratios. For instance, who is arrested goes a long way toward explaining who is incarcerated. And blacks are

much more likely to be arrested for a felony than whites. The Sentencing Commission staff will use richer data and more sophisticated statistical techniques to look at the question of race and sentencing in future months, through our formal evaluation of S.B. 2.

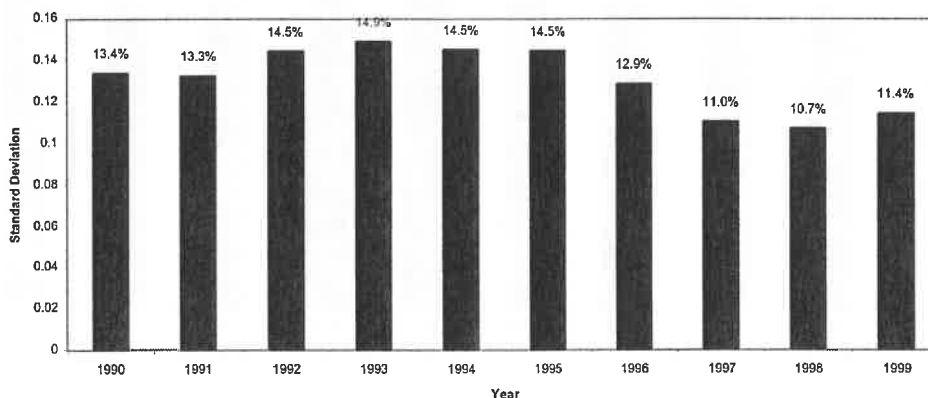
Uniformity

One of the goals of S.B. 2 was to assure that similar offenders who commit similar offenses get treated similarly. S.B. 2 attempted to do this with a guided sentencing approach that gave judges the discretion to appropriately apply a community's standards in sentencing.

In studying uniformity, the Sentencing Commission staff looked at Ohio's 88 counties and compared their ratio of prison intake to common pleas court case filings. This crude measure gives us a way of looking at how counties vary across the state in how they make imprisonment decisions.

This chart shows the year to year variation in the percent of common pleas court cases that result in a prison term county to county. Note that in the years after S.B. 2, there is less variation among counties. In other words imprisonment decisions are more uniform after S.B. 2.

County to County Uniformity of Imprisonment Decisions since 1990



Formal Evaluation

This report is not a formal, academic style, impact evaluation of Ohio's new felony sentencing law. Rather, it is designed to report on the data from available sources. Unfortunately, it is sometimes difficult to attribute effects (or lack of effects) observed in the data to changes in sentencing laws. Also, it is sometimes difficult to answer very specific questions about certain kinds of offenders and sanctions.

In order to more fully and more formally evaluate the impact of S.B. 2, a data-rich study is needed. Such a study would be similar to the Offender Tracking Study that was prepared by the Commission staff in 1992.

The University of Cincinnati's Division of Criminal Justice along with the Sentencing Commission research staff has received a partnership grant from the National Institute of Justice to study the impact of S.B. 2. The study is being headed by the Commission's staff and Dr. John Wooldredge at the University.

The study has collected data on approximately 7,000 felony cases before and after the effective date of S.B. 2. The goal is to compare the pre-S.B. 2 cases with the S.B. 2 cases, and statistically control for as many variables as possible. This will give us the best data yet to study the impact of S.B. 2.

The sample was drawn from county prosecutor offices, with the cases followed up through local probation departments and DRC. The data can be used for many purposes. One is to assess the impact of S.B. 2 on sentencing; another is to better predict the impact of future changes in law on the prison population and local corrections.

Results will be available starting at the Department of Rehabilitation's research conference at the end of April.

Judicial Opinion

In preparation for the evaluation grant, and as a starting point for his Ph.D. dissertation, University of Cincinnati student Timothy Skip Carboneau Griffin surveyed Ohio's

general division common pleas judges about their opinions on Ohio's felony sentencing law. He asked judges whether they thought the law was meeting some of its stated goals.

55.1% of the judges agreed or strongly agreed with the statement, "In general, SB 2 Guidelines are good for the sentencing process". 63.7% agreed or strongly agreed that "Adjusting to SB 2 guidelines has been relatively easy for most judges".

Meanwhile, 67.9% agreed or strongly agreed with the statement, "The sentence presumptions of SB 2 have diminished the authority of the sentencing judge". 30.6% agreed that, "The members of the Ohio Criminal Sentencing Commission understand the perspectives of judges on sentencing issues".

The survey also asked judges for some background information about themselves. It was interesting to see how judges from differing backgrounds viewed S.B. 2:

	Percent of felony judges who Strongly Agree or Agree that SB 2 guidance is "good for the sentencing process".
Overall	55.1%
Large County Judges	58.0%
Medium and Small County Judges	53.0%
Former Prosecutors	54.5%
Former Defense Attorneys	57.5%
Former Non-Criminal Litigants	58.6%
Former Other Experienced Attorneys	50.0%
>10 yrs on the bench	50.0%
<=10 yrs on the bench	59.7%
Men	55.9%
Women	47.7%