

RECLASSIFICATION PROPOSAL

ODOC ANALYSIS



September 2021



Method:

ODOC began by pulling data for FY2020 releases. Using release data allows capture of the time inmates actually spent in prison and county jail compared to the amount of time an inmate was sentenced to. Releases also capture all forms of release whether to parole, to the street, to probation, to consecutive sentences in other jurisdictions, etc. Also, between FY16 and FY20 neither the average sentence lengths nor time served significantly varied.

Data was extracted to establish a strong sampling of each of three groups. The first group consisted of inmates whose controlling offense was listed in 21 O.S. 13.1 (85% crimes), the second group was of those serving time for crimes that are listed in 57 O.S. 571 but *not* listed in 21 O.S. 13.1 (historically referred to as violent crimes) and the last group was inmates serving time for crimes listed in neither 21 O.S. 13.1 nor 57 O.S. 571. Each group was sampled with enough crimes to yield a significant portion of the inmates within the group.

Upon reviewing the Sentence Length and Length of Stay data, known sentences were compared to the proposed range of punishment according to the draft proposal. Any sentences outside the proposed range were adjusted to fit within the range and the difference calculated. Sentences below the proposed range of punishment were increased and sentences above the range of punishment were decreased. The net difference was calculated for a total change in days *sentenced*. However, the proposal includes minimum mandatory percentage requirements for all sentences. So the difference in days sentenced had to be adjusted to account for the change. So a ten year difference in the sentence length could only amount to a change of 2.5 years for a 25% crime while it would equate to 8.5 years for an 85% crime. For crimes that already maintained a minimum percentage time served, the difference between the two required percentages was used.

Upon arriving at a total change of time served for each sampled crime, they were factored into their group's numbers for a total impact of that group. Then each group was factored in to its percentage of the total prison population for a grand total impact.

Of note: the impact will not occur instantly, but over the course of the lifetime of a prosecution and sentencing of an inmate (approximately 45 years). However, since most inmates are sentenced to ten years or fewer, the majority of the impact would manifest within the next ten years, as noted within each crime analyzed.

ODOC predicts the proposal will have a neutral impact on the inmate population. There would be a nominal decrease in the *average* length of stay across all inmates of 0.5054 years per inmate. Using current data, once the entire impact manifested, ODOC estimates approximately 860 fewer inmates overall.



Child Abuse (A3)

Currently under 21 O.S. 13.1 and 57 O.S. 571

	Current ROP	Proposed ROP	Δ ROP
First Offense	0-Life (85%)	2-40 (75%)	Increase min by 2 years Decrease MMP by 10%
1 Prior Conviction	10-Life (85%)	5+ (75%)	Decrease min by 5 Decrease MMP by 10%
2+ Prior Convictions	20-Life (85%)	5+ (85%)	Decrease min by 15 Neutral to MMP

Looking at sentences received by ODOC and factor in the change. We need the equation:

$$A(I) + B(I) + C(I) = \text{Net Impact}$$

Where:

A = expected change to inmates' sentences below the proposed range of punishment

B = expected change to inmates' sentences within the current range of punishment, and

C = expected change to inmates' sentences above the proposed range of punishment

I = the number of inmates within the group

A = 63 inmates with a total difference of +22,151 days (60 years) sentenced

B = 210 inmates with sentences within the range of punishment

C = 0 inmates with no calculable difference

Net impact in years = +60 years * 85%MMP = 51 years

Due to the decrease in MMP of 10%, all first and second offense sentences' required time served must be reduced by that amount: 20,887 days

Totals years of required time served reduced by 10% = -57 years

Factoring in the change in ROP and the MMP, the total difference in years of liability to ODOC is -6 years.

If we divide this number by the number of inmates serving time for this crime, we see that we **reduce our liability by 0.021 years per inmate** sentenced for Child Abuse.

*The full impact will not manifest until all inmates serving time for Child Abuse under the current structure timed out. However, over half of the inmates in the group are serving 10 years or fewer with diminishing percentages as sentence length increases. So half the effect would be achieved within 10 years.



Lewd Acts with a Child (B1)

Currently under 21 O.S. 13.1 and 57 O.S. 571

	Current ROP	Proposed ROP	Δ ROP
First Offense	3-20 (85%) (25+ if Child <12yo)	3-20 (50%)	Increase min by 2 years Decrease MMP by 35%
1 Prior Conviction	10-Life (85%)	5-40 (50%)	Decrease min by 5 Decrease MMP by 35%
2+ Prior Convictions	Life (85%) or LWOP	5-40 (65%)	Decrease min to 5 Decrease max to 40 Decrease MMP by 20%

Looking at sentences received by ODOC and factor in the change. We need the equation:

$$A(I) + B(I) + C(I) = \text{Net Impact}$$

Where:

- A = expected change to inmates' sentences below the proposed range of punishment
- B = expected change to inmates' sentences within the current range of punishment, and
- C = expected change to inmates' sentences above the proposed range of punishment
- I = the number of inmates within the group

Here

- A = 17 inmates with a total difference of +21 years sentenced
- B = 152 inmates with sentences within the range of punishment
- C = 0 inmates with a total difference of +0 years sentenced

Net impact in years = +21

Due to the decrease in MMP of 20-35%, all sentences required time served must be reduced by that amount:

- First Offense: -92,928 days
- Second Offense: -71,540 days
- Totals years sentenced impact = -164,468 days or -450 years

Factoring in the change in ROP and the MMP, the total difference in years of liability to ODOC is -429 years. If we divide this number by the number of inmates serving time for this crime, we see that we **reduce our liability by 2.5 years per inmate** sentenced for Lewd Acts with a Child.

The full impact will not manifest until all inmates serving time for Lewd Acts with a Child under the current structure timed out. However, over three quarters of the inmates in the group are serving 10 years or fewer with diminishing percentages as sentence length increases. So half the effect would be achieved within 10 years.



Use of Firearm in the Commission of a Felony (B1)

Currently under 57 O.S. 571 and *not* 21 O.S. 13.1

	Current ROP	Proposed ROP	Δ ROP
First Offense	2-10	3-20 (50%)	Increase min by 1 years Increase max by 10 years Increase MMP by 50%
1 Prior Conviction	10-30	5-40 (50%)	Decrease min by 5 Increase MMP by 50%
2+ Prior Convictions	10-30	5-40 (65%)	Decrease min by 5 Increase MMP by 50%

Looking at the raw sentences received by ODOC and factor in the change. We need the equation:
 $A(I) + B(I) + C(I) = \text{Net Impact}$

Where:

- A = expected change to inmates' sentences below the proposed range of punishment
- B = expected change to inmates' sentences within the current range of punishment, and
- C = expected change to inmates' sentences above the proposed range of punishment
- I = the number of inmates within the group

Here

- A = 34 inmates with a total difference of 30 years sentenced
- B = 252 inmates with sentences within the range of punishment
- C = 0 inmates with a total difference of +0 years sentenced

Net impact in years = +30

Due to the decrease in MMP of 50-60%, all sentences must be increased by that amount:

- First Offense: 12,158 days
- Second Offense: 8,575 days
- Third+ Offense: 63,741 days

Totals years sentenced impact = +231 years

Factoring in the change in ROP and the MMP, the total difference in years of liability to ODOC is 217 years. If we divide this number by the number of inmates serving time for this crime, we see that we **increase our liability by .91 years per inmate** sentenced for Use of a Firearm in the Commission of a Felony.

The full will not manifest until all inmates serving time for Use of a Firearm in the Commission of a Felony under the current structure timed out. However, approximately 90% of the inmates in the group are serving 10 years or fewer with diminishing percentages as sentence length increases. So most of the effect would be achieved within 10 years.



Assault and Battery with a Dangerous Weapon (B4)

Currently under 57 O.S. 571 and *not* 21 O.S. 13.1

	Current ROP	Proposed ROP	Δ ROP
First Offense	0-10	1-10 (40%)	Increase min by 1 year Increase MMP by 40%
1 Prior Conviction	10-Life	3-20 (40%)	Decrease min by 7 Decrease max to 20 Increase MMP by 40%
2+ Prior Convictions	20-Life	3-20 (50%)	Decrease min by 17 Decrease max to 20 Increase MMP by 50%

Looking at the raw sentences received by ODOC and factor in the change. We need the equation:
 $A(I) + B(I) + C(I) = \text{Net Impact}$

Where:

- A = expected change to inmates' sentences below the proposed range of punishment
- B = expected change to inmates' sentences within the current range of punishment, and
- C = expected change to inmates' sentences above the proposed range of punishment
- I = the number of inmates within the group

Here

- A = 16 inmates with a total difference of +3513 days sentenced**
- B = 572 inmates with sentences within the range of punishment
- C = 16 inmates with a total difference of -64,240 days sentenced
- Net impact in years served = -166 years * 50%MMP = -83 years

Due to the increase in MMP of 40-50%, all sentences must be increased by that amount:

- First Offense: +22388 days
- Second Offense: +14,529 days
- Third or Greater Offense: +16,957 years

Totals years sentenced increased by MMP% = +53,874 days (+147 years)

Factoring in the change in ROP and the MMP, the total difference in years of liability to ODOC is +64 years. If we divide this number by the number of inmates serving time for this crime, we see that we **increase our liability by 0.105 years per inmate sentenced** for Assault with a Dangerous Weapon.

The full impact will not manifest until all inmates serving time for Assault and Battery with a Dangerous Weapon under the current structure timed out. However, almost 90% of the inmates in the group are serving 10 years or fewer with diminishing percentages as sentence length increases. So most of the effect would be achieved within 10 years.



Burglary, Second Degree (C2)

Currently *not* under 21 O.S. 13.1 *nor* 57 O.S. 571

	Current ROP	Proposed ROP	Δ ROP
First Offense	0-7	0-7 (25%)	Increase MMP by 25%
1 Prior Conviction	2-Life	2-15 (25%)	Decrease max to 15 Increase MMP by 25%
2+ Prior Convictions	4-Life	2-15 (40%)	Decrease min by 2 Decrease max to 15 Increase MMP by 40%

Looking at the raw sentences received by ODOC and factor in the change. We need the equation:

$$A(I) + B(I) + C(I) = \text{Net Impact}$$

Where:

A = expected change to inmates' sentences below the proposed range of punishment

B = expected change to inmates' sentences within the current range of punishment, and

C = expected change to inmates' sentences above the proposed range of punishment

I = the number of inmates within the group

Here

A = No change, the minimum is static

B = 681 inmates with sentences within the range of punishment

C = 48 inmates with a total difference of 133,257 days (365 years sentenced)

Net impact in years = 365 years * 40%MMP = -146 years

Due to the increase in MMP to 25-40%, all sentences minimum served must be increased if the inmates have not served the minimum:

First Offense: +1,042

Second Offense: +2874

Third or Greater Offense: +120,367 days (330 years)

Totals years sentenced increased by MMP% = 124,283 days (340 years)

Factoring in the change in ROP and the MMP, the total difference in years of liability to ODOC is 194 years. If we divide this number by the number of inmates serving time for this crime, we see that we **increase our liability by 0.101 years per inmate** sentenced for Second Degree Burglary.

The full impact will not manifest until all inmates serving time for Burglary in the Second Degree under the current structure timed out. However, over half of the inmates in the group are serving 10 years or fewer with diminishing percentages as sentence length increases. So half the effect would be achieved within 10 years.



Distribution of a Controlled Dangerous Substance (C2)

Currently *not* under 21 O.S. 13.1 *nor* 57 O.S. 571

	Current ROP	Proposed ROP	Δ ROP
First Offense	0-7	0-7 (25%)	Static ROP Increase MMP by 25%
1 Prior Conviction	0-14	2-15 (25%)	Increase min by 2 Increase max by 1 Increase MMP by 25%
2+ Prior Convictions	0-20	2-15 (40%)	Increase min by 2 Decrease max by 5 Increase MMP by 40%

Looking at the raw sentences received by ODOC and factor in the change. We need the equation:

$$A(I) + B(I) + C(I) = \text{Net Impact}$$

Where:

A = expected change to inmates' sentences below the proposed range of punishment

B = expected change to inmates' sentences within the current range of punishment, and

C = expected change to inmates' sentences above the proposed range of punishment

I = the number of inmates within the group

Here

A = 0 inmates with a total difference of +0 years sentenced

B = 2,235 inmates with sentences within the range of punishment

C = 241 inmates with a total difference of -2,007 years sentenced

Net impact in years = -2,007 * 40%MMP = -802 years

Due to the increase in MMP of 25-40%, all sentences must be increased by that amount:

First Offense: 5,533

Second Offense: 14,654

Third Offense: 83,850

Totals years sentenced impact = 285 years

Factoring in the change in ROP and the MMP, the total difference in years of liability to ODOC is -517 years. If we divide this number by the number of inmates serving time for this crime, we see that we **reduce our liability by 0.2 years per inmate sentenced for Distribution.**

The full impact will not manifest until all inmates serving time for Distribution under the current structure timed out. However, over half of the inmates in the group are serving 10 years or fewer with diminishing percentages as sentence length increases. So half the effect would be achieved within 10 years.



Summary:

Impact of 21 O.S. 13.1 crimes sampled:

2 crimes represent 32.74% of such inmates

Reduction of liability by 1.23 years per inmate sentenced to an 85% crime

Impact of 57 O.S. 571 *non* 21 O.S. 13.1 crimes sampled:

2 crimes represent 43.66% of such inmates

Increase of liability by .363 years per inmate sentenced to a violent non-85% crime

Impact on non 21 O.S. 13.1 nor 57 O.S. 571 crimes sampled:

2 crimes represent 18.25% of such inmates

Reduction of liability by 0.07 years per inmate sentenced to a non-violent crime

OVERALL IMPACT ON ODOC POPULATION:

Factoring percentages of each subcategory into total population:

Overall reduction of 0.5054 years per inmate sentenced to ODOC.

Impact will be spread out over the lifespan of a prosecution and fulfillment of sentencing. A majority of the impact will manifest within ten years.

