



Washington State Criminal Sentencing Task Force

December 18, 2019 Initial Report

Prepared for:
The Washington State Governor and the Washington State Legislature

THE WILLIAM D. RUCKELSHAUS CENTER

UNIVERSITY OF WASHINGTON

The William D. Ruckelshaus Center is a neutral resource for collaborative problem solving in the State of Washington and the Pacific Northwest, dedicated to assisting public, private, tribal, non-profit, and other community leaders in their efforts to build consensus and resolve conflicts around difficult public policy issues. It is a joint effort of Washington State University, hosted and administered by WSU Extension, and the University of Washington, hosted by the Daniel J. Evans School of Public Policy and Governance.

For more information visit www.ruckelshauscenter.wsu.edu

WILLIAM D. RUCKELSHAUS CENTER

901 Fifth Avenue, Suite 2900

Seattle, WA 98164-2040

-and-

Hulbert Hall, Room 121

Pullman, WA 99164-6248

DISCLAIMER

The following report was prepared by the William D. Ruckelshaus Center (Center) on behalf of the Washington State Criminal Sentencing Task Force. The Center's mission is to help parties involved in complex public policy challenges in the State of Washington and Pacific Northwest tap university expertise to develop collaborative, durable, and effective solutions.

University leadership and the Center's Advisory Board support the preparation of this and other reports produced under the Center's auspices. However, the information and policy recommendations contained in this report are intended to reflect the statements, opinions, and decisions of the Task Force. This information and policy recommendations do not represent the views of the universities, Advisory Board members, or the Center's staff and faculty.

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WILLIAM D. RUCKELSHAUS CENTER

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Washington State Criminal Sentencing Task Force December 2019 Initial Report

In 2019, The Legislature directed the William D. Ruckelshaus Center (Center) to facilitate a Task Force convened to review state sentencing laws and provide recommendations for the purpose of:

- (a) Reducing sentencing implementation complexities and errors;
- (b) Improving the effectiveness of the sentencing system; and
- (c) Promoting and improving public safety.

The proviso requested the Task Force submit an initial report to the Governor and the appropriate committees of the Legislature by December 31, 2019 and a final report by December 31, 2020.

Prior to the first meeting, the Ruckelshaus Center Facilitation Team (Facilitation Team) spoke with each member of the Task Force to better understand desired goals, visions of success, potential issues and challenges, and ideas on how to address the three policy directives described in the proviso. The Facilitation Team used the information learned from each member to design a collaborative process that would help the Task Force build capacity towards consensus and create mutual understanding through the use of information sharing and thinking exercises, productive inquiry and dialogue sessions, and deliberation guided by shared principles.

The Task Force met monthly from September – December 2019 for full-day facilitated meetings. The Facilitation Team provided both process design and neutral facilitation, guiding the Task Force in its work to develop the shared understanding necessary to build trust to reach consensus and two policy recommendations, described in this report.

For more information about the Task Force please visit: <https://ruckelshauscenter.wsu.edu/criminal-sentencing/>

Ruckelshaus Center Facilitation Team

Amanda Murphy, Ruckelshaus Center Senior Project Lead; Assistant Professor, Washington State University Extension

Chris Page, Ruckelshaus Center Project and Development Lead, Assistant Professor, Washington State University Extension

Molly Stenovec, Ruckelshaus Center Project and Program Manager

Michael Kern, Ruckelshaus Center Director, Associate Professor, Washington State University Extension

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Washington State Criminal Sentencing Task Force

December 2019 Initial Report

Background

The Washington Legislature passed the Sentencing Reform Act (SRA) in 1981 to ensure punishment proportionate to offense, promote respect for the law, ensure each sentence is commensurate with those issued to others committing the same offense, offer the offender opportunities to improve him/herself, protect the public, make frugal use of state resources, and reduce the risk of reoffending. The SRA took effect in 1984. Every year since then, the Legislature has made changes to state sentencing laws, resulting in a system of immense complexity. Errors in implementing sentences have had negative results and costs have risen.

To address these and other issues, the Legislature in 2019 directed the William D. Ruckelshaus Center (Center) to facilitate a Task Force convened to review state sentencing laws and provide recommendations for the purpose of:

- (a) Reducing sentencing implementation complexities and errors;
- (b) Improving the effectiveness of the sentencing system; and
- (c) Promoting and improving public safety (see Appendix A.)

Initial Report: The Task Force will submit an initial report to the Governor and the appropriate committees of the Legislature by December 31, 2019.

Final Report: The Task Force will submit a final report by December 31, 2020.

Task Force Members

Lydia Flora Barlow, Task Force Co-Chair – Statewide Reentry Council Representative

Roger Goodman, Task Force Co-Chair – Washington State House of Representatives

Jon Tunheim, Task Force Co-Chair – Washington Association of Prosecuting Attorneys

Senator Mike Padden – Washington State Senate

Senator Manka Dhingra – Washington State Senate

Representative Brad Klippert – Washington State House of Representatives

Sonja Hallum – Washington State Office of The Governor

Elaine Deschamps – Washington State Caseload Forecast Council

Secretary Stephen Sinclair – Washington State Department of Corrections

Russ Hauge – Washington State Sentencing Guidelines Commission

Suzanne Cook – Statewide Family Council

Judge Roger Rogoff – Superior Court Judges' Association

Gregory Link – Washington Association of Criminal Defense Attorneys and The Washington Defender Association

Chief Rafael Padilla – Washington Association of Sheriffs and Police Chiefs

Councilmember Derek Young – Washington State Association of Counties

Judge Veronica Alicea-Galvan – Washington State Minority and Justice Commission

Chief James Schrimpscher – Labor Organization Representing Active Law Enforcement Officers in Washington State

Tarra Simmons – Representing the Interests of Incarcerated Persons

Nick Allen – Representing the Interests of Incarcerated Persons

DeVitta Briscoe – Representing the Interests of Crime Victims

Lew Cox – Representing the Interests of Crime Victims

2019 Task Force Meetings and Accomplishments

The Task Force held four meetings from September – December 2019. Provided is a brief summary of the Task Force’s meetings and accomplishments in 2019. Additional information is provided in Appendix B, which includes each of the Task Force meeting summaries.

September 30, 2019

At its first meeting, the Task Force reviewed and considered suggested ground rules and operating procedures, agreeing by consensus on a decision-making process. The Task Force considered a schematic map of the sentencing system, recognizing that while charged with reviewing Washington state’s sentencing laws, a comprehensive approach would include consideration of more than just the state’s sentencing grid; it would also cover some presentencing elements and potentially non-sentencing approaches to reducing recidivism and improving public safety.

Members also articulated visions of what their accomplishments together might look like, discussed definitions of key terms, and generated dozens of specific suggestions toward the group’s three guiding policy goals.

The Task Force discussed roles of the Ruckelshaus Center Facilitation Team and the co-chairs, decided each Member should commit to attending all meetings, and supported allowing members to appoint an alternate. The Task Force also agreed by consensus on the selection of three Co-Chairs:

- Lydia Flora Barlow
- Representative Roger Goodman
- Jon Tunheim

October 24, 2019

At its second meeting, Task Force members responded to the opening question “If you could change only one thing about the sentencing system, what would you change and why?” Many members described broad, systemic changes such as broader judicial discretion (with more information available), shifting focus from re-offense to reentry, and addressing the disproportionality of the existing system; others focused on specific areas of the system such as diversion, sentencing, and flexibility in the sentencing grid.

The Task Force accepted by consensus both the September 30th meeting summary and its Operating Procedures (see Appendix C.) with minor revisions based on Member input. The Task Force received a presentation on the work of the Sentencing Guidelines Commission (SGC) and members had the chance to ask clarifying questions, provide comments, and discuss the SGC’s recommendations.

The Task Force discussed its timeline and potential elements of a workplan, and a proposal to consider early actions on a discrete set of changes to the Revised Code of Washington (RCW) that might have bipartisan support in the 2020 Legislative session. Building on an initial list proposed by Representative Goodman, the Task Force collectively suggested the following ideas for early actions:

- Uniform judgment & sentencing forms
- Concurrent periods of supervision
- Mandated and funded pre-sentence investigations
- More discretion in swift and certain response to supervision violations
- Compliance credit
- Ranking the unranked crimes
- Delink Legal Financial Obligations (LFOs) from funding for victims’ services
- Restoration of voting rights
- Tolling

After considerable dialogue, the Task Force agreed its November 18th meeting would focus on the following early action recommendations to the Legislature: tolling, concurrent supervision, “swift & certain” response to supervision violations, and compliance credit, (also referred to as Positive Achievement Time).

November 18, 2019

At the start of the meeting, Task Force members listed ideas for topics or issues they would like to see as the focus of future meetings. Responses included “Sentencing 101” from multiple perspectives (e.g., prosecutor, judge, the accused), education and other services behind bars, ways to reduce prison populations, tools for supporting successful reentry into the community, and more evidence and data about key issues.

The Task Force accepted its October 24th meeting summary as final without changes before briefly considering a draft set of Guiding Principles (see Appendix D). The Facilitation Team developed these principles based on the proviso’s policy goals and the values expressed by the Task Force during the assessment interviews and the brainstorm session at the first meeting. The purpose of these principles is to serve as a framework for the Task Force to use when discussing and considering potential recommendations:

Representatives from the Department of Corrections (DOC) presented key elements of the four early action items proposed for policy recommendations the Task Force might include in its December 2019 “preliminary report” to the Legislature: tolling, concurrent supervision, swift & certain response to supervision violations, and compliance credit. After each presentation, Task Force members engaged in discussion.

Not all members felt ready to consider advancing the proposed Tolling policy change as a recommendation; nor did all members feel comfortable with all elements of the “Swift & Certain” proposal. The Task Force, with the aid of a graphic depiction of the ramifications of concurrent vs. consecutive supervision, agreed by consensus on the policy recommendation that the default for multiple supervision terms should be concurrent rather than consecutive. The Task Force also agreed by consensus on the policy recommendation of providing positive incentives to individuals on supervision (Compliance Credit), as opposed to solely a violation-and-punishment focus.

December 6, 2019

The Task Force began the meeting by reviewing their operating procedures, definition of consensus, and process for expressing disagreement. The Task Force then focused on meeting their 2019 deliverables and further refining their 2020 work plan. The first deliverable: submitting a preliminary report to the Governor and Legislature. The Task Force provided input on a draft of the initial report which Ruckelshaus Center staff prepared on behalf of the Task Force. All members present agreed by consensus to the overall approach with the following modification: that all references to positive achievement time be switched to “compliance credit.”

For the remainder of the meeting, members considered and discussed potential early action recommendations for inclusion in the report. Early action topics included: tolling of community supervision terms, swift and certain count, judgment and sentencing forms, and pre-sentencing investigations. After lengthy information sharing and dialogue members agreed that these early action topics should instead be included in the 2020 workplan to allow for more discussion time and more data/research to inform conversations. Additional information and detail of the discussion is provided in the December 6, 2019 draft meeting summary, located in Appendix B. The meeting summary is still in draft form and will be reviewed and finalized by the Task Force at the January 9th 2020 meeting.

As part of the 2020 work plan, the Facilitation Team proposed the Task Force create two working groups and all members present agreed by consensus on this proposal. One working group will focus on Sentencing Effectiveness and the other will focus on Reentry and Reducing Recidivism. The 2020 workplan for the Task Force begins on page six of this report.

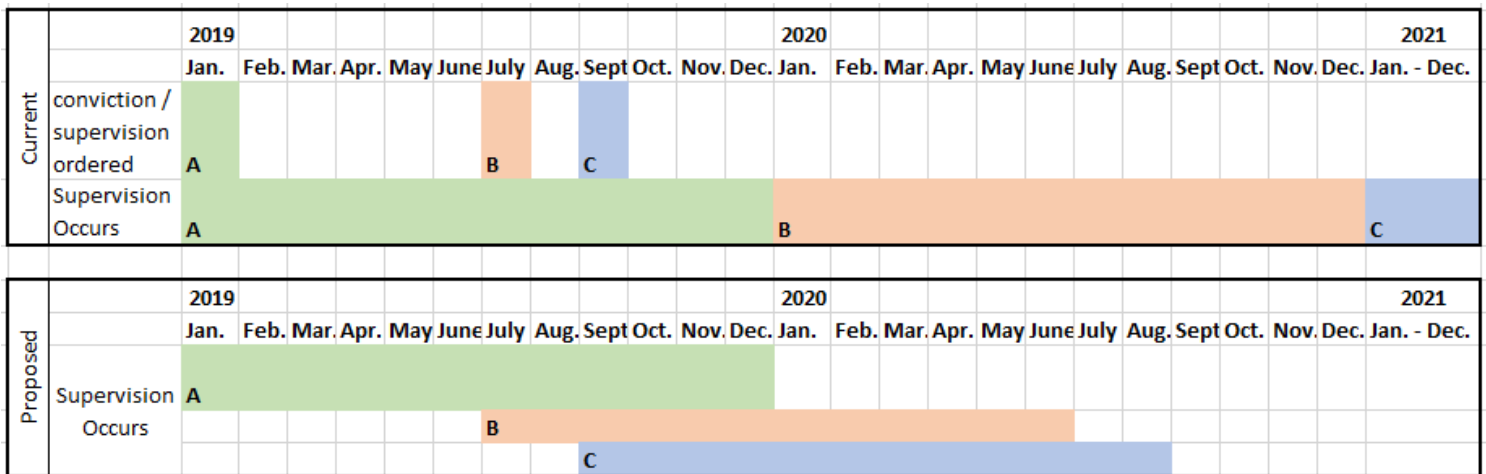
Actions and Recommendations for the 2020 Legislative Session

The budget proviso directs the Task Force to review state sentencing laws, including the report of the Sentencing Guidelines Commission and to submit an initial report, including findings and recommendations, to the Governor and appropriate committees of the Legislature by December 31, 2019. Provided below are the Task Force's findings and policy recommendations for the 2020 Legislative session.

The Task Force has established a Legislation Working Group comprised of the four Legislative members and the non-Legislative co-chairs, tasked with drafting legislation on each of these policy recommendations.

Concurrent Community Supervision

According to the Sentencing Reform Act (SRA), judges determine sentences for felony offenses by selecting a determinate sentence from a range listed in statute. Ranges are determined by reference to the sentencing grid. When a person is convicted for multiple offenses in the same case, the court imposes separate sentences, including terms of confinement, for each offense. In this situation, the SRA requires sentences to run concurrently – the person serves both sentences simultaneously, with the longest period of confinement impacting the potential release date. If the person commits a new offense while still serving their sentence for a previous felony, including during a period of community custody, the term of confinement for the new offense does not commence until the expiration of the sentence for the prior offense, unless a judge imposes an exceptional sentence based on mitigating circumstances.



Current statutes lack clarity on the relationship between a current term of community custody and prior, unfinished term(s) as to whether they should be served concurrently or consecutively. The graphic above shows how an individual may receive three 12-month supervision terms over the course of 2019, but current law states that (unless explicitly ordered as concurrent) the terms are served consecutively—one supervision does not start until the prior term ends; nor does the treatment that would be required as a condition of the subsequent violation.

Any tolling event(s) in 2019 would not only adjust the end date of supervision A (which could be for a drug related crime) but also adjust the start date of Supervision C (which could be for a domestic violence-related crime). Under the current system, DOC is not able to fully supervise an individual in a manner that accounts for all their needs due to sequencing supervision terms and corresponding conditions (e.g., anger management or cognitive behavior therapy for domestic violence would not start until well after that violation).

Changing the presumption from consecutive to concurrent terms of supervision, a judge could still require consecutive terms, but by default an individual could be “supervised” for multiple convictions at the same time.

The start date of a supervision term would begin with sentencing, rather than waiting for one supervision to end. If tolling occurs, then all supervisions are paused simultaneously.

Task Force Recommendation: The terms of community custody shall run concurrently to each other unless the court expressly orders community custody run consecutively. Such changes clarify the presumption of community custody to be concurrent for both instances in which multiple terms of community custody can exist:

1. Between multiple current counts contained in one sentencing; and
2. When individuals have a current term of community custody ordered who also still have a term of community custody from a prior, unfinished term.

The changes allow the courts discretion to expressly order terms be served consecutively. This proposal includes a provision related to sentences that were previously imposed, which gives clear direction to DOC to set the relationship between multiple causes and/or sentences as concurrent unless the court had ordered otherwise.

Compliance Credit

Community custody is a portion of a person's sentence served in the community, under the supervision of the Department of Corrections. While on community custody, the individual is subject to a variety of conditions. If those conditions are violated, the individual may be required to serve the remaining portion of their time in confinement. While some individuals are eligible for earned early release from incarceration for good behavior and good performance ("good time"), there is no similar allowance for community custody. The Department of Corrections is not currently permitted to reduce a person's time on community custody based on their good behavior.

Task Force Recommendation: The Task Force recommends changes to the law that would allow most individuals on community supervision to earn time off of their community custody sentence. This Compliance Credit may only be awarded to individuals who have clearly shown positive behavior. Compliance with supervision plus completion of specific treatment, programming or reentry goals, may result in the granting of Compliance Credit. The result is that higher performing individuals move off of supervision more quickly, thereby allowing DOC to focus limited resources on those individuals who need it the most. DOC shall collect data by race, gender, age, location of those granted Compliance Credit and of those with Compliance Credit revoked.

For more information about the Task Force please visit: <https://ruckelshauscenter.wsu.edu/criminal-sentencing/>

2020 Proposed Work Plan of the Task Force

This work plan covers the Task Force meetings planned for 2020, leading up to the development of the final report.

Per the budget proviso, the Task Force is charged with reviewing state sentencing laws, including a consideration of the report of the Sentencing Guidelines Commission and to develop recommendations for the purpose of:

- (a) Reducing sentencing implementation complexities and errors;
- (b) Improving the effectiveness of the sentencing system;
- (c) Promoting and improving public safety.

Initial Report – December 31, 2019: The Task Force is to submit an initial report, including findings and recommendations, to the governor and the appropriate committees of the Legislature by December 31, 2019.

Final Report – December 31, 2020: The Task Force is to submit a final report by December 31, 2020.

Task Force Working Groups

Two Task Force Member Working Groups - focusing on the two clusters of topics/potential policy actions identified by the Task Force during its October 2019 meeting - that will identify, research, and analyze potential recommendations for the entire Task Force to consider.

Working Group 1: Sentencing Effectiveness and the Sentencing Grid

Working Group 2: Reentry and Reducing Recidivism

The Task Force will consider and winnow potential recommendations during summer/fall 2020 meetings to arrive at a consensus package of recommendations to be described in the December 2020 final report.

Working Group 3: The Task Force also established a **Legislation Working Group** comprised of the four Legislative members and the non-Legislative co-chairs, tasked with drafting legislation on the policy recommendations provided in the December 31, 2019 Initial Report. The Task Force may decide to re-convene this working group to assist in drafting legislation for 2021 based on the final report of policy recommendations, due on December 31, 2020.

The Ruckelshaus Center Facilitation Team will be providing facilitation services; preparing meeting agendas, materials, and summaries; and assisting in the writing of draft and final reports on behalf of the Task Force.

KEY MILESTONES FOR COMPLETING THE DECEMBER 2020 REPORT:

- Initial Draft of Task Force recommendations at meeting #9 in September.
- Refined list of draft recommendations at Task Force meeting #10 in October.
- Draft report by Oct 26 for discussion at meeting #11 in November.
- Final draft report completed by November 23 for final agreement at meeting #12 in December.
- Final report submitted to Governor's Office and the Legislature on December 31, 2020.

TASK FORCE MEETINGS IN 2020

The table below outlines the Task Force’s 2020 meetings and proposed work flow.

Meeting	Date/Location	Agenda Topics and Outcomes
Task Force Meeting #1	Jan 9	Sentencing 101 <ul style="list-style-type: none"> Learning about the sentencing process through multiple lenses
<ul style="list-style-type: none"> Working Groups meeting – additional detail TBD 		
Task Force Meeting #2	Feb 6	Disproportionality Report
<ul style="list-style-type: none"> Working Groups meeting – additional detail TBD 		
Task Force Meeting #3	Mar 19	Visiting a prison
<ul style="list-style-type: none"> Working Groups meeting – additional detail TBD 		
Task Force Meeting #4	Apr 9	Working Group 1: Sentencing Accuracy and the Sentencing Grid <ul style="list-style-type: none"> Presentations Discussion Provide work group with guidance, input, questions to clarify and/or explore, etc.
<ul style="list-style-type: none"> Working groups meeting – additional detail TBD 		
Task Force Meeting #5	May 7	Working Group 2: Reentry and Reducing Recidivism <ul style="list-style-type: none"> Presentations Discussion Provide work group with guidance, input, questions to clarify and/or explore, etc.
<ul style="list-style-type: none"> Working groups meeting – additional detail TBD 		
Task Force Meeting #6	Jun 4	Working Group 1: Sentencing Accuracy and the Sentencing Grid <ul style="list-style-type: none"> Presentations Discussion Provide work group with guidance, input, questions to clarify and/or explore, etc.
<ul style="list-style-type: none"> Working groups meeting – additional detail TBD 		

Task Force Meeting #7	July 9	Working Group 2: Reentry and Reducing Recidivism <ul style="list-style-type: none"> • Presentations • Discussion • Provide work group with guidance, input, questions to clarify and/or explore, etc.
<ul style="list-style-type: none"> • Working groups meeting – additional detail TBD 		
Task Force Meeting #8	Aug 6	Review the suite of potential actions provided by the Working Groups and begin developing a draft list of recommendations. Send additional questions back to the Working Groups for clarification or elaboration, as needed.
<ul style="list-style-type: none"> • Working groups meeting – additional detail TBD 		
Task Force Meeting #9	Sep 10	Review a refined set of potential recommendations provided by the Working Groups (initial draft package). Send questions back to the Working Groups for clarification or elaboration. Add to and refine the draft list of recommendations initiated at the previous meeting.
<ul style="list-style-type: none"> • Working groups meeting – additional detail TBD 		
Task Force Meeting #10	Oct 1	Review 2 nd draft, which will be a refined list of recommendations of the Task Force. Discuss, clarify, provide input for Facilitation and Co-chairs for drafting of final report.
Task Force Meeting #11	Nov 5	Present and discuss draft report.
Task Force Meeting #12	Dec 3	Final agreement on final report.

Appendix A. Budget Proviso

1 NEW SECTION. **Sec. 952.** (1) The Washington state criminal
2 sentencing task force is established.

3 (2) The task force is composed of members as provided in this
4 subsection.

5 (a) The president of the senate shall appoint one member from
6 each of the two largest caucuses of the senate.

7 (b) The speaker of the house of representatives shall appoint one
8 member from each of the two largest caucuses of the house of
9 representatives.

10 (c) The president of the senate and the speaker of the house of
11 representatives jointly shall appoint members representing the
12 following:

13 (i) The office of the governor;

14 (ii) Caseload forecast council;

15 (iii) Department of corrections;

16 (iv) Sentencing guidelines commission;

17 (v) Statewide family council administered by the department of
18 corrections;

19 (vi) Statewide reentry council;

20 (vii) Superior court judges' association;

21 (viii) Washington association of criminal defense attorneys or
22 the Washington defender association;

23 (ix) Washington association of prosecuting attorneys;

24 (x) Washington association of sheriffs and police chiefs;

25 (xi) Washington state association of counties;

26 (xii) Washington state minority and justice commission;

27 (xiii) A labor organization representing active law enforcement
28 officers in Washington state;

29 (xiv) Two different community organizations representing the
30 interests of incarcerated persons; and

31 (xv) Two different community organizations or other entities
32 representing the interests of crime victims.

33 (3) The legislative membership shall convene the initial meeting
34 of the task force no later than September 1, 2019. The membership
35 shall select the task force's cochairs, which must include one
36 legislator and one nonlegislative member.

37 (4) The task force shall review state sentencing laws, including
38 a consideration of the report of the sentencing guidelines commission
39 required by section 129, chapter 299, Laws of 2018. The task force
40 shall develop recommendations for the purpose of:

- (a) Reducing sentencing implementation complexities and errors;
- (b) Improving the effectiveness of the sentencing system; and
- (c) Promoting and improving public safety.

(5) The task force shall submit an initial report, including findings and recommendations, to the governor and the appropriate committees of the legislature by December 31, 2019. The task force shall submit a final report by December 31, 2020.

(6)(a) The William D. Ruckelshaus center shall administer and provide staff support and facilitation services to the task force. The center may, when deemed necessary by the task force, contract with one or more appropriate consultants to provide data analysis, research, and other services to the task force for the purposes provided in subsection (4) of this section.

(b) The caseload forecast council shall provide information, data analysis, and other necessary assistance upon the request of the task force.

(7) Legislative members of the task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(8) This section expires January 1, 2021.

Sec. 953. RCW 28B.20.476 and 2018 c 299 s 905 are each amended to read as follows:

The geoduck aquaculture research account is created in the custody of the state treasurer. All receipts from any legislative appropriations, the aquaculture industry, or any other private or public source directed to the account must be deposited in the account. Expenditures from the account may only be used by the sea grant program for the geoduck research projects identified by RCW 28B.20.475. Only the president of the University of Washington or the president's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2017-2019 and 2019-2021 fiscal (~~(biennium)~~) biennia, amounts available in the geoduck aquaculture research account may also be appropriated for the sea grant program at the University of Washington to conduct research examining the possible negative and

Appendix B. 2019 Meeting Summaries

Washington State Criminal Sentencing Task Force Meeting

Summary: September 30, 2019

Criminal Justice Training Center, 19010 1st Ave. S., Burien, WA

Task Force Attendees:

- DeVitta Briscoe
- Suzanne Cook
- Lew Cox
- Elaine Deschamps
- Senator Manka Dhingra
- Lydia Flora Barlow
- Representative Roger Goodman
- Kim Gordon (on behalf of Greg Link)
- Sonja Hallum
- Russ Hauge
- Chief Rafael Padilla
- Chief James Schrimpscher
- Tarra Simmons
- Jon Tunheim
- Councilmember Derek Young
- Nick Straley (attending on behalf of Nick Allen)

Facilitation Team: Amanda Murphy, Chris Page, Michael Kern, and Molly Stenovec – William D. Ruckelshaus Center

WELCOME & INTRODUCTIONS

Michael Kern, Director of the Ruckelshaus Center, provided a brief welcome and overview of the Ruckelshaus Center.

Project Co-Leads Chris Page & Amanda Murphy then asked members of the Criminal Sentencing Task Force (Task Force) to share name, affiliation, and response to the following question:

Imagine that it is the last Task Force meeting in December 2020, what are your two biggest accomplishments together?

Many members described their hopes for the process. Some specifically talked about transparency, while others hoped the group builds a common understanding and has reached consensus. Others expressed desire for the group to have considered racial and economic equity and the legacy of policies such as the war on drugs. Members also want this process to build trust and working relationships among Task Force members.

In terms of anticipated outcomes, many described broad aspirations. Responses included:

- feeling that public safety has been considered in all decision-making;
- increased clarity of the criminal sentencing system;
- increased trust in judges while also decreasing racial disparity;
- that recommendations are informed by data and creative thinking;
- improved visibility regarding the intersection of race and justice; and
- that everyone has a clear, common understanding of where we're going.

Task Force members also described their aspirations for the recommendations the group will generate. Responses included: practical measures that could be passed in the 2021 Legislative session; created a process for ongoing review of the criminal sentencing system; and established path towards a criminal justice system that allows for a more individualized

approach to sentencing. Some members also described specific anticipated accomplishments, such as:

- Simplified the judging and sentencing forms (J&S forms) as well as the sentencing grid;
- Reduction in the prison population;
- Developed a path for eliminating racial disparity in sentencing;
- Process has examined impacts of incarceration on local governments and developed recommendations to decrease their financial burden; and
- Package of comprehensive updates to the Sentencing Reform Act, which incorporates current values and best practices.

Some noted that while December 2020 marks a deadline for this group, the work of reducing complexity, improving effectiveness, and promoting public safety will be ongoing.

REVIEW AGENDA AND DISCUSSION GROUNDRULES

Chris Page walked through the agenda and explained that the Center often leaves the “draft” watermark on an agenda until after the meeting to allow the Facilitation Team to change times and sequencing to meet the needs of the group. A final copy of the agenda is attached to the summary.

Chris also briefly reviewed the ground rules and operating procedures, which were informed by feedback during the informational interviews and the Center’s experience working with other groups. Members of the Task Force made the following requests:

- Meeting materials will be sent electronically in advance and hard copies (with three ring holes) will be provided at meetings.
- Meeting rooms will include outlets for computer/phone charging.
- Facilitation Team will provide morning and afternoon refreshments.

BACKGROUND AND OVERVIEW

Representative Goodman provided an overview of the events that led to the creation of the Task Force. In his remarks, the Representative noted that 30+ years of modifications and changes to the Sentencing Reform Act and the sentencing grid have created a system that is very complex. Recently, that complexity has led to errors, such as the sentencing computation error that resulted in the early release date of many incarcerated persons. Members of the House Public Safety Committee began thinking about a group that could have broad and inclusive representation of interested and affected entities coming together to build on the work of the Sentencing Guidelines Commission, that could take on some of the tough issues, and make recommendations and improvements to the criminal sentencing system.

Keri-Anne Jetzer provided an overview of the Sentencing Guidelines Commission history and recent work. The Sentencing Reform Act of 1981 created the Sentencing Guidelines Commission (SGC). The SGC served as data collection and dissemination center of sentencing practices across the state. In 2011, the SGC was integrated into the Office of Financial

Management (OFM) and the Caseload Forecast Council. Membership of the SGC includes: judges, attorneys, local and state government, local law enforcement and citizens.

Past work of the SGC includes creation of the original adult felony grid, the drug sentencing grid, and recommendations related to *Blakely v. Washington*. In 2018, the Legislature directed the SGC to conduct a review of the Sentencing Reform Act. The final report, which includes 20 recommendations, was released August 2019. Currently the SGC is working on an inventory of alternatives to confinement, in part to ensure that they do not duplicate or detract from the work of the Task Force.

After the brief presentations, members of the Task Force had an opportunity to ask questions and provide comments.

Q: How does the work of the SGC relate to the work of the Task Force?

R: Task Force includes several members of the SGC but was composed to include perspectives that were not included in the SGC in order to build broader support for legislative action.

Q: How does the work of the WA State Caseload Forecast Council differ from the Administrative Office of the Courts?

R: Caseload Forecast Council keeps a comprehensive statewide database of judgments and sentences and is tasked with forecasting caseloads in the State of Washington. Attendees understood that the Administrative Office of the Courts (AOC) has less comprehensive data than the Caseload Forecast Council, but offers a number of other services such as maintenance of the Judicial Information System (JIS).

The Task Force discussed evidence-based solutions and innovation. Some expressed concern that looking at “tried and true” practices might constrain or limit opportunities for innovation and creative thinking. Others suggested that the group should focus on the intersection of evidence and innovation, noting that data can both direct away from or towards something. The conversation then shifted to information needs and who might either have that information or be able to provide it. Some attendees expressed a desire for more detailed information regarding demographics and sentencing. In response, others noted that the Washington State Caseload Forecast Council produces an annual demographic and sentencing report.

FINDINGS FROM CONVERSATIONS WITH TASK FORCE MEMBERS

Chris & Amanda provided the following overview of what they heard and learned during the interviews/conversations with individual members of the Task Force and how the key themes that emerged informed the development of the agenda. In response to questions regarding goals for the Task Force, members shared the following:

- Be part of a process that includes participants with diverse backgrounds with decades of experience.

- Want an inclusive process where members truly listen to each other.
- Want to develop recommendations that uphold public safety and improve the criminal sentencing system.
- Many talked about the policy goals articulated in the budget.
 - In terms of reducing complexities and errors, some suggested opportunities to the complexity of the sentencing grid so that there are fewer errors in the judgment & sentencing forms.
 - Regarding improving the effectiveness of the system: For some this meant creating a system that is less expensive, while others talked about reentry and reducing recidivism. Challenges include paradigm shift of incarceration to rehabilitation/monitoring and allowing judges increased discretion in sentencing.
 - Concerning promoting and improving public safety: many expressed hope that the Task Force can create more opportunities for programs and services such as job training, mental health, and addiction support, rather than just confinement.
- In terms of barriers to reaching some of the above goals, members mentioned politics, resources, and paradigm shifts (especially regarding rehabilitation and monitoring, rather than incarceration and granting judges more discretion).

Areas of common ground include:

- Desire to reduce costs (across the system) and complexity in the criminal sentencing grid;
- Want to eliminate racial disparity and disproportionate impacts to certain communities
- Include voices of incarcerated persons throughout the process and in the recommendations; and
- Pathways for incarcerated persons to have more successful reintegration to the community.

With respect to the collaborative process, members shared that:

- Members bring open minds and listen to fellow Task Force members.
- In terms of perspectives not included on the Task Force, interviewees listed rural, Latinx, mental & behavioral health, county, addiction services, and fiscal impact.
- The facilitation team needs to be truly neutral, to provide equal air time, and ensure that everyone understands the jargon.
- Role of the co-chairs should include an awareness of the public landscape and consideration of the whole group and criminal sentencing system.
- Members of the Task Force will need some time to build trust.
- Want some meetings to occur outside of Western WA.

Key Takeaways:

- Members of the Task Force deeply care about this topic and have a shared belief that status quo is not acceptable. Members have a shared commitment to achieve tangible

results and to make a system that is more equitable, that is created by a group that is more representative.

Questions/Comments from Members

Q: did members of the Task Force use language and terms differently? For example, different definitions of “public safety”?

R: Yes, but as part of the process the group will be developing shared definitions of terms and of the criminal sentencing system.

OPERATING PROCEDURES & DECISION-MAKING PROCESS

Amanda and Chris presented and walked through a first offer of draft, suggested operating procedures and the consensus decision-making process. Members then discussed, offered suggestions, and made decisions on the roles, responsibilities, ground rules, and decision-making process.

The following paragraphs summarize the discussion on various aspects of the draft operating procedures and call out any decisions made by the group.

Roles & Responsibilities: Chris and Amanda clarified that the Center will provide facilitation and some staff support, but the reports will be the product of the Task Force. Members of the Task Force then engaged in a discussion regarding the content, especially of the first report due in December of 2019. Some expressed hope that the Task Force will reach consensus on pieces of the work laid out by the SGC that could then lead to pieces of bills that could be introduced in the 2020 Legislative session. The Facilitation Team wants the group to determine what will go into each report. Many members noted that not all challenges within the criminal sentencing system will be addressed in the next 15 months and that this work may be ongoing.

Alternates: As per the draft operating procedures, members are not required to designate an alternate. The Facilitation Team noted that in some cases it can be helpful to have an alternate so that a perspective is represented, but the process can get complicated if alternate and primary have different views or are not on same page. A member of the Task Force asked if an alternate must be affiliated with the same organization as the member. In the ensuing discussion, members noted that individuals were named to represent various perspectives, not necessarily just an organization. This is reflected in the draft operating procedures that state that “members will bring the concerns & perspectives of their various constituencies to the Task Force, where appropriate, for discussion and possible consensus building.”

Absences and Consensus Decision-Making: The discussion on decision-making opened with a conversation on member absences and the role of alternates, specifically if alternates could vote/make decisions on behalf of the member. Some noted that if alternates could not assume the full roles of members, then the group might struggle to have 2/3 present for decisions and that absences might be used to stall decision-making. Others stated the need to trust that appointees will attend as much as possible and that absence is not a tactic to delay the process.

As part of this conversation, the Washington State Caseload Forecast Council stated that they will participate in the process as a non-voting member.

The Facilitation Team offered the following proposal: *Appointed members of the Task Force may choose to designate an alternate and must communicate that choice to the Facilitation Team and Co-Chairs.....Unless otherwise stated, alternates speak and act on behalf of the member—which includes decision-making.*

Decision: All Task Force members present conveyed consensus for the above edits to the operating procedures.

Members of the Task Force discussed absences and the process of integrating those absent in the decision-making process. Many members of the Task Force noted that for some decisions the participation of all 20 voting members may be valuable to the process. The group engaged in a discussion about the process of how key points of the deliberations would be communicated afterward to those absent and how those perspectives would be included, particularly if those absent were not in consensus.

The group brought forth and discussed the following proposals

- If those absent are not in consensus, a role of co-chair(s) will be to decide if that decision needs to be revisited by the full group.
- If those absent are not in consensus, the full group will revisit that decision. Some expressed concern that this could be a tactic for stalling and delaying decision-making.

Decision: All Task Force members present conveyed consensus to the following revisions:

Consensus decision-making can be achieved when at least 14 of 20 appointed members (or their designated alternates) are present.

The Task Force will have the option to ask the Facilitation Team to communicate afterward with members not present for a decision, to explain key points of Task Force deliberations, and confirm whether those members can go along with the decision. If not, the co-chairs may decide whether the full Task Force should reconsider the decision at a subsequent meeting.

Public Meetings: Chris and Amanda let members know that TVW has requested to attend and film future Task Force meetings.

Decision: The Task Force is comfortable having the meetings filmed by TVW.

DECIDE ON TASK FORCE CO-CHAIRS

Amanda and Chris provided an overview of criteria for selecting co-chairs.

Decision: All Task Force members present conveyed consensus to the following revision to the Co-Chairs section of the operating procedures: f) committed to working for outcomes that meet the ~~needs~~ interests of all Task Force members.

The Task Force then engaged in a conversation regarding the number of co-chairs. The proviso requires at least two co-chairs (one legislative and one non-legislative). Membership considered nominating 5 co-chairs but thought that would be too many individuals.

Decision: All Task Force members present conveyed consensus to nominating one legislative and two non-legislative co-chairs.

The following individuals received nominations and endorsements (and expressed willingness and ability to serve):

- Representative Roger Goodman due to experience as a legislator and substantive knowledge of the criminal justice system, and proven ability to work across the aisle.
- Lydia Flora Barlow because she spends most of her day working and talking with incarcerated people and would bring a race/equity lens and ethos of consensus building. In her role with the Statewide Reentry Council, Lydia works with many differing perspectives, such as police departments, prosecution, defense, and incarcerated persons. Lydia would also bring perspective of African American women, who are disproportionately both victims of crime and affected by the criminal sentencing system.
- DeVitta Briscoe, who would provide survivor of crime and incarcerated person perspectives.
- Chief James Schrimpsheer since he brings both decades of law enforcement perspective and experience working on tough policy issues, specifically as a member of the Deadly Force Taskforce. He has also been involved in the First Steps Program and efforts to balance public safety and alternatives to incarceration.
- John Tunheim, due to his involvement in the SGC and motivation to build on that effort. He envisions Washington as a national leader in innovation in criminal justice systems.

Decision: All Task Force members present conveyed consensus to selecting Representative Roger Goodman as their Legislative Co-Chair.

After voting members of the Task Force engaged in a sticky dot exercise to gauge support for the non-legislative co-chairs, the group nominated and considered the following proposals:

- DeVitta Briscoe and Lydia Flora Barlow
- Jon Tunheim and Lydia Flora Barlow

Members of the Task Force did not reach consensus when considering DeVitta Briscoe and Lydia Flora Barlow as co-chairs. During the ensuing discussion, some suggested a need to consider optics, specifically regarding racial and gender diversity. Others saw a need for an “institutional” perspective and those most adversely affected by the system, while others suggested a need to bring the perspectives of crime victims and incarcerated persons to the forefront.

The Facilitation Team then asked the Task Force to show thumbs for Jon Tunheim and Lydia Flora Barlow.

Decision: all Task Force members present conveyed consensus, selecting Jon Tunheim and Lydia Flora Barlow as Co-Chairs.

Decision: Task Force Chairs:

- Roger Goodman as their Legislative Co-Chair
- Lydia Flora Barlow
- Jon Tunheim

WHAT IS THE CRIMINAL SENTENCING SYSTEM?

Amanda and Chris presented a preliminary system map of the criminal sentencing system for the Task Force to begin the conversation about the size and complexity of the system, how it affects and is affected by other topic areas, such as mental health. As the group begins to develop ideas and recommendations, members can go back to the system and consider ripple effects. Amanda then walked the group through a visual of the criminal sentencing system, informed in part by the interviews with members prior to the meeting.

Amanda and Chris explained how it was not necessary for the group to clearly define the scope of the task force at this meeting. The purpose was to provide a visual of where everyone has expertise throughout the entire system and show where in the system members focused on when talking with Chris and Amanda during the interviews.

The Task Force suggested the following additions to the system map:

- Treatment alternatives to incarceration
- Supervision, which includes job training, housing
- Diversion
- Collateral consequences (retention of conviction on record, ability to volunteer at schools, etc.)
- Income inequality, race, homelessness, etc. as contributing factors
- Community-based responses and services (organizations that are providing alternatives to confinement or diversions)

Additional comments:

- Incarcerated persons face very different challenges upon release from jail and from prison.
- People can be diverted to alternatives to incarceration at many different points in the criminal sentencing system.
- Members need to consider what individuals are being sentenced for, the experience before, during and after sentencing. Sentencing is not simply a matter of time.
- Members need to focus on the sentencing and creating pathways along the system for alternatives to sentencing, to diversion.

- Reentry Council has preferred language, but using “offender” is problematic, preferred to use “incarcerated people”. Propose that this group seeks to use humanizing language.

Q: Is this the adult system? Are juveniles included?

R: Some members noted that the while adult and juvenile systems are very different, the adult criminal sentencing system could consider how juveniles are integrated. Others noted that the SGC focused on the adult sentencing system and that the intent, in part, of the Task Force is to move forward the work of the SGC.

FACILITATED BRAINSTORM

Amanda and Chris led members through a facilitated brainstorm to gather each members thoughts and ideas on the three policy goals of the Task Force, as described in the budget proviso.

Task Force members wrote down their responses to the following questions on large sticky notes and posted them on the wall:

1. Reducing Sentencing Implementation Complexities and Errors
 - a. What are the implementation complexities and errors that need to be reduced?
 - b. Why?
 - c. Ideas about how to reduce?
2. Improving the Effectiveness of the Sentencing System
 - a. What is not working effectively?
 - b. Why?
 - c. Ideas about how to improve?
3. Promoting and Improving Public Safety
 - a. What is public safety? – What does it look like?
 - b. What needs to be promoted and improved?
 - c. Why?

Amanda and Chris will thematically categorized the sticky note responses written by members and will bring them to the Task Force’s second meeting to be used as a starting point for creating tasks and a work plan for 2019 and 2020.

Note: A transcription of the sticky notes is provided in Appendix A.

DECISIONS, SCHEDULE, NEXT STEPS, REFLECTION

During wrap-up, the Task Force spent some time brainstorming topics for future meetings. Agenda items include:

- Presentation by the Reentry Council on their current work so the so the Task Force is aware of and not duplicating their efforts.

- Presentation on high level goals and purpose of the Sentencing Reform Act.
- Review of effectiveness of different types of sentencing systems, what are recidivism rates in correlation with different crimes ---WA State Institution of Public Policy
- General disproportionality report
- Hold a meeting in Walla Walla, meet with incarcerated people and hear their stories.
- Facilitated conversation around narrative of who is the victim and who is criminalized (DeVitta and her work with a survivors' council).
- Presentation on the work of the Justice Reinvestment Task Force (contact Sonja Hallum).
- Meetings during the legislative session: Friday works best, but preference for Olympia Jan-March

At the end of the meeting, Amanda and Chris asked members to go around and share one thing they are taking with them from today's meeting. Members Responses:

- Supporting the task force
- Bringing the system out of the 80s
- Optimistic for the group
- Work on changing vocabulary
- Appreciation for the people who are at this table and the perspectives they are bringing
- Wow! Thanks to everyone, including the facilitation team.
- Have lots of hope for the group to come together and change in our humanity and create a system that better reflects our values
- While we have lots of challenges, but optimistic that we will meet them
- Deep appreciation for everyone and looking forward to the work
- Look forward to bringing people from affected communities into the conversation
- Taking away more questions than answers, but looking forward to meeting everyone
- While our language might be different, we are all aware of the sensitivity and importance of the topic
- Feeling gratitude to be part of this group and looking forward to making a contribution to something much larger
- Appreciative the facilitation team and task force members in making a safe space for discussions and have lots of hope for the process and where we're headed
- Taking away a sense of awe, for the time and talent you are bringing and courage for stepping into a collaborative process.

RE-CAP OF DECISION AND ACTION ITEMS

Task Force Decisions:

- The Task Force agreed on discussion groundrules.
- The Task Force agreed on the following revisions to the operating procedures:
 - *Appointed members of the Task Force may choose to designate an alternate and must communicate that choice to the Facilitation Team and Co-Chairs.....Unless otherwise stated, alternates speak and act on behalf of the member—which includes decision-making.*
 - *Consensus decision-making can be achieved when at least 14 of 20 appointed members (or their designated alternates) are present.*
 - *The Task Force will have the option to ask the Facilitation Team to communicate afterward with members not present for a decision, to explain key points of Task Force deliberations, and confirm whether those members can go along with the decision. If not, the co-chairs may decide whether the full Task Force should reconsider the decision at a subsequent meeting.*
- Public Meetings: The Task Force is comfortable having the meetings filmed by TVW.
- The Task Force decided to elect one Legislative co-chair and two non-legislative co-chairs. The Task Force selected the following Co-Chairs:
 - Roger Goodman as their Legislative Co-Chair
 - Lydia Flora Barlow
 - Jon Tunhein

Task Force Action Items:

- Send Amanda and Chris additional suggested edits to the operating procedures. Amanda and Chris will incorporate suggested edits and provide a second draft at the next meeting.
- Read the Sentencing Guidelines Commission Report and come to the next meeting with input and questions.
- Update and communicate with key individuals and constituencies.

Action Items for the Facilitation Team:

- Synthesize the stickies so that the group will be able to develop priorities at the second meeting.
- Build a contact list of task force members and alternates.
- Build a website with agendas meeting materials, etc.
- Schedule October, November, and December 2019 meetings
- Find a recurring meeting pattern for 2020 meetings (group prefers Thursdays or Fridays) (Group also noted preference for Olympia during Legislative Session and potential for meetings to be held at Tacoma County Council Offices, the Training Center, Tukwila Community Center, Walla Walla or Yakima).

APPENDIX A.**Criminal Sentencing Task Force Members Input – Sticky Notes**

Criminal Sentencing Task Force Meeting, September 30, 2019

Reducing Sentencing Implementation Complexities and Errors

- 1) What are the implementation complexities and errors that need to be reduced?
- 2) Why?
- 3) Ideas about how to reduce?

Sentencing laws are continually changing – driving additional complexity and leading to errors.

Additional efforts on training practitioners on changes are needed.

-
- Enhancements – reduce/eliminate
 - Get back to the story of the person
 - J&S forms across the state
 - Community informed
 - Restorative practices
 - Update/invest in 2020 tech

Offense multipliers and some enhancements make calculation score complex.

Reduce/eliminate multipliers

Limits flexibility to address the root cause of the offender's behavior

Does not take into account the consequences of the complexities

Lack of data driven decisions

Allow judges at all levels to have more flexibility

Can't just be viewed as easier to incarcerate

Complexity in the system masks bias in the system

Aggravating factors are urban/rural based

Complexity leads to errors with folks serving longer sentences

Delegate contours of sentencing practice to local authorities, i.e. let judges, working within guidelines set the final parameters of the sentence.

Sentencing has been directed by our outdated - Tough on crime values

Science and best practices have not directed sentencing laws or decisions

Sentencing is too narrowly focused on incarceration

Sentencing has been divorced from goals of rehabilitation

Sentencing decisions reflects the needs of the system, not the needs of the people affected.

Sentencing decisions do not reflect the actual costs borne by communities affected by crime

Focus on individualized sentencing

Create mechanisms to (?) upon change of circumstances

Sentencing not connected to other systems and needs of people impacted

- 1) Judgment and sentence (J&S) forms differ across the state. Sentence miscalculations are too frequent. Also, many community supervision periods are miscalculated.
- 2) Almost 40 years of continual statutory amendments – and court decisions – related to sentencing have resulted in maddeningly complex sentences, case-by-case.
- 3) Establish a uniform worksheet for all counties to use state-wide in order for sentences to be calculated correctly.

Make community supervision terms presumptively concurrent (rather than consecutive)

Give courts discretion to consider prior record, aggravating/mitigating factors as part of individualized sentences.

Inconsistency in sentencing documents. At least 10% of J&S documents rec'd by DOC have issues that need to be clarified:

- Illegible
- Blank/missing info
- Math errors
- Appear inconsistent with statute

Solution:

- Standard J&S
 - Judicial branch Q&A process
-

Sentencing decisions driven by facts and data, not politics and fear.

Look at models across the nation and sentencing data/facts and crime rates.

Transparency

- Complexity of sentencing makes it difficult for all participants (judges, prosecutors, defense bar, victims, sentenced individuals, DOC) to understand the terms of the sentence.
 - Simpler rules
 - Fewer add-ons (enhancements, multipliers, etc.)
 - Standard J&S
-

What are the complexities?

- Different forms in different locations
- Classes of felonies that have no clear connection to sentencing levels
- Some lower degrees of crimes are ranked as more serious than the higher degree of the same crime.
- Different calculations for earned release time.
- Different rules for concurrent/consecutive sentences
- Enhancements that function different from aggravators
- Enhancements/aggravators/mitigators rarely, if ever used
- Mathematical formulas (the grid) to calculate the sentence plus a lot of “add-ons” for specific crimes
- Very different rates for who gets supervised and when and how and by who

Why – complexities and errors

- 1) Piecemeal changes to a complicated “holistic” system w/o enough regard for how changes to one piece affects the others.
- 2) The attempt to do justice in individual cases with a formulaic, one-size-fits-all, sentence

How to reduce complexities and errors?

- Make a simpler system
 - Create opportunities for individualized tailoring of the sentence, by an informed judge-after hearing from an informed prosecutor and defense council.
 - Give the courts more guidance and more discretion.
 - Build in clear plans for supervision
 - Combine “classes” of crimes with sentencing levels
 - Get rid of multipliers
 - Get rid of different earned-time calculations
-

Improving the Effectiveness of the Sentencing System

- 1) What is not working effectively?
- 2) Why?
- 3) Ideas about how to improve?

Lack of an independent body that is responsible for reviewing statutory sentencing on an ongoing and comprehensive manner is short-sighted.

Need for an independent and well-funded body to advise policy makers. Similar to how the SGC was originally designed (but not how it actually operated).

Reduce prison population and racial inequity in arrest and sentencing.

Post-conviction review process will give offenders incentive to participate in rehabilitative programs.

It's not working because we have a ballooning aging prison population that will cost the state.

Sentences not properly individualized

- One size fits all thinking
- Attempts to simplify
- Tough on crime
- Laws that promote an overly punish era and Legislators fearful of being seen as too lenient
- Rehabilitation not relevant to sentencing, people that are affected are not part of decision-making
- Emphasize rehabilitation, those connected to actual people impacted
- Age appropriate sentencing
- The second look available for all
- Deemphasize (?) as goal
- Focus on health, deemphasize punishment
- Place needs of impacted communities at heart of sentencing paradigms.

Inefficient use of resources

- Consecutive terms of supervision – resources could be better used for reentry activities.
- Also, a complexity issue.

Tolling of supervision

- Drives resources. Complex rules and lack of information make it difficult to track effectively.

Solution: Concurrent supervision, repurpose \$ for case management and eliminate tolling.

The rigid nature of the sentencing matrix.

What it does not allow for is the flexibility to address some of the most root causes of the offender's actions.

Simplify the process.

More uniformity of judgment and sentencing forms across counties.

What is not working?

- Length of sentences
- Errors in scoring

Why?

- Revenge, not justice.
- Consequences to communities/families not addressed appropriately

How to improve?

- Holistic approach
 - Diversion – alternatives
 - Radically change the grid
-

Sentence ranges are often too narrow, which limits discretion in sentencing decisions.

Ranges should be expanded.

- 1.) Recidivism/re-offense rates are too high. Inadequate rehabilitation programs and services →
 - 2.) Excessive incarceration is counterproductive to successful reentry. Woefully inadequate community supervision/support. Inadequate focus on offender risks/needs/responsibility.
-

- 3.) Risk-based, more community-oriented responses; greatly increased programming both inside and outside the facilities.

Need trauma-informed rehabilitative prisons.

Let's visit European prisons to get inspiration!

Sentencing system targets disproportionate by demographic, e.g. stacking

Sentences too low (*word not legible*) services while incarcerated.

No way to return.

Evidence shows long sentences have diminishing returns

Low/no community (*word not legible*) upon release.

-
- Too much emphasis on incarceration.
 - Too little emphasis on rehabilitation.
 - Too little consideration of the community as a whole.
 - Too little consideration of – and opportunity for consideration of – individual circumstances and needs (this includes offenders and victims and the communities)
 - No chance (or very little) to resist initial sentencing decisions.
 - Too much emphasis on responding to the “crime of the day”
 - Too little opportunity for everyone impacted by crime to be considered in the sentencing process.
 - Too much discretion in the hands of the prosecution-only.
 - Too few trials (coercive plea practices)
 - Not enough \$
 - Not enough trained professionals in the system.

Not working: lengthy sentences with no hope or opportunity for release

DOC not equipped to deal with elderly folks.

Little quality programming in some prisons.

Inadequate healthcare in prisons.

Challenges with family visits, building a support system.

Additional focus on risk-need-responsive (RNR) sentencing and sanctioning.

Non-confinement alternatives for community supervision response to violations.

Violation behavior, rather than just violation count, and individual circumstances need to be considered in sanction response.

Reduce recidivism via supervision of offenders who, research proves, will benefit from it.

Sentencing can be improved by:

- Preparing the incarcerated for release.
 - Housing, career training
 - Mental health/drug treatment
 - Transportation plan prior to release
 - Anger management tools
 - Tools/hope for a better life after release
-

Not working: inconsistent sentences that don't follow guidelines of RCW 9.94A.010

Example: 5 year max for vehicle crime theft. "Free crime"

How to improve: review current sentences to ensure they work to achieve 9.94A.010

Promoting and Improving Public Safety

- 1) What is public safety? – What does it look like?
 - 2) What needs to be promoted and improved?
 - 3) Why?
 - 4) Ideas about how to promote and improve?
-

What is public safety?

- Additionally add to language, "transforming lives" - Change intent of language →

What needs to be improved?

- Holistic approach.
 - All public safety inclusion.

Why?

- All people are the Public and deserve inclusion.

How to promote and improve?

- Public safety is not incarceration.

Public safety is to provide all communities with an environment that they can live with out fear.

Promote a focus on returning offenders to the community with tools to be successful.

Invest in the success of offenders while they are being supervised.

Public safety includes emphasis on health and (?) and people impacted by crime.

Public safety includes efforts to reduce (?) and intensity of violence

Public safety includes strengthened economic power of all communities

Public safety involves focus on needs of people affected.

Public safety requires appropriate and equitable distribution of resources.

Public safety means that our communities are invested in and believe in fairness of system

System professionals must be willing to cede power to others.

Experiences and views of most impacted must be centered in direct decisions.

Sentences must be charged to truly address needs of people impacted and accountability of people responsible.

People making decisions also reflect communities most affected by those decisions.

Racial disproportionality and class differences must be overtly and intentionally addressed at all levels

Public safety among other things is when the public is free from being victimized by crime.

Promote/improve/reduce broken families. Increase personal accountability/responsibility!

Improve the education system: more respect, and more/better career training.

Homes where children have a supportive/loving mom and dad in their family/home.

Improve child labor laws so kids can work earlier.

What is it: healthy, vibrant, thriving communities.

What needs to be promoted and improved: alternatives to warehousing/punishment focus; ways to decreasing and allowing prison population.

Why: sentencing is individual but the cause for needing is community based.

How: alt-based, community based

What it looks like:

- Community environment is one where they feel comfortable/safe to live, raise a family, work and prosper

What needs to be promoted:

- Strengthen accountability for violent offenders
- Increase restorative justice programs/services
- Increase/implement post-sentence/release services/programs.

Idea: develop a multi-based early release model.

Put rehabilitation programs into the prison system. Make it mandatory for inmates to take the program before being released.

Lock up those who need to be locked up;

Support those offenders who, research shows, will benefit from support in the community.

Supervision is not authorized for many non-violent felonies. This limits reentry resources as well as system confidence in reentry programming.

Public safety is when ALL people have their basic human needs met and have positive supportive primary relationships.

Mental health is accessible to ALL.

Poverty and racism is ended.

Invest in marginalized communities:

- Wrap around services in education
 - Homes for all
 - Healthcare accessibility – mental health; Sub treatment
-

- Food for all
 - Love/connection for all
 - Opportunity for all
-

What: only happens in a healthy, vibrant, thriving community.

- Decrease incarceration as only option
 - Increase ability to leave when its time
 - Change is expensive when incarcerated
 - Removal barriers to full reinstatement at community rate
 - Diversion, 2nd look, prison reform, sentence length, stacking, race, etc.
-

What is public safety?

Do more good

Do less harm

What needs to be improved?

- 1.) Maximize the use of system alternatives to incarceration.
 - 2.) Fund alternatives and use best practices.
 - 3.) Incarcerate the right people, in the right way, for the right amount of time.
 - a. This is an individual determination based on offense, individual needs/opportunities, and resources
 - 4.) Take into account the values that incarceration imposes on some in the community and balance that with what is accomplished via incarceration.
 - 5.) Take a second look at causes during incarceration, when lengthy periods of confinement are imposed.
 - 6.) Reintegrate those sentenced into the community to reduce recidivism.
-

Public safety is not met through punishment and long-term sentencing.

DO NOT USE VICTIMS AS PAWNS TO PUSH “TOUGH-ON CRIME” AGENDA. Don’t speak for all victims.

Dis-investment strategy that transfers to community-based responses/public health approaches.

Washington State Criminal Sentencing Task Force FINAL

Meeting Summary: October 24, 2019

Criminal Justice Training Center, 19010 1st Ave. S., Burien, WA

Task Force Attendees:

- Lydia Flora Barlow
- Roger Goodman
- Jon Tunheim
- Nick Allen
- DeVitta Briscoe
- Suzanne Cook
- Senator Manka Dhingra
- Sonja Hallum
- Russ Hauge
- Gregory Link
- Chief Rafael Padilla
- Judge Roger Rogoff
- Chief James Schrimpscher
- Tarra Simmons
- Secretary Stephen Sinclair
- Judge Veronica Alicea-Galvan
- Councilmember Derek Young
- Clela Steelhammer
- Mac Pevey (attending on behalf of Sec. Stephen Sinclair)

Facilitation Team: Chris Page, Michael Kern, and Molly Stenovec – William D. Ruckelshaus Center

WELCOME & INTRODUCTIONS

Chris Page welcomed the Criminal Sentencing Task Force (Task Force) and asked members to share name, affiliation, and response to the following question: *If you could pick just one thing about the sentencing system to change, what would that be and why?*

Many Task Force members described broad systemic changes, for example:

- Shifting the focus to reentry, rather than re-offense.
- Making a more humane system that can incorporate the intersection of race and justice.
- Addressing the disproportionality of the existing system.
- A system that holds people accountable for their actions, not just by incarceration, then supports and welcomes individuals back into the community.
- A system that better integrates the needs of victims, incarcerated persons, and the community.

Many talked about a sentencing system grounded more on evidence and research—some felt that would require a fresh start and creation of a new sentencing grid.

Some members focused on specific areas of the sentencing system: diversion, sentencing, and reentry:

- In terms of diversion, some talked about the twin needs of investing in people *before* they enter the system and providing alternatives to incarceration.
- With respect to sentencing:
 - Some expressed a desire to increase the amount of information provided to judges for sentencing, to allow the judge to better assess the person and the sentence.
 - Others described greater flexibility in the sentencing grid for judicial discretion,
 - Some would increase opportunities for post-sentencing review.
- For reentry, responses included: simplified supervision laws, addition of merit-based benchmarks, and overhaul and expand community reentry and supervision program.

REVIEW AGENDA and DRAFT 9/30/19 MEETING SUMMARY

After a brief review of the agenda (available at <https://ruckelshauscenter.wsu.edu/meetings-and-materials-criminal-sentencing-task-force/>), the Task Force did not have any questions regarding the agenda.

The Task Force then asked questions and provided comments on the draft summary from the September 30th meeting. Chris reminded the group, given their short timeline and sizable task(s), of the importance of reading materials in advance.

Question (Q): How does consensus decision-making and a collaborative process differ from Robert’s Rules of Order?

Response (R): Rather than a majority rule voting process, this group seeks to make decisions acceptable to all entities. If someone does not support a decision, then the group will continue discussion and seek solutions that allow all members to “live with” the proposal (have their thumb sideways or up—see [operating procedures](#) for details). Meeting summaries of collaborative processes capture the key points of discussions and decisions, rather than time-stamped minutes.

Decision: All Task Force members present accepted the September 30th meeting summary as final (available on website).

OPERATING PROCEDURES

Molly Stenovec invited members to review the Task Force roster and asked members to send her any corrections, missing contact information, or designations of alternates.

Molly presented the revised draft operating procedures. Members discussed, offered suggestions, and made decisions on further modifications.

The following paragraphs summarize the discussion and specifies decisions the Task Force made:

Section C: Given that the proviso explicitly names entities and perspectives to serve on the Task Force, the Facilitation Team suggested that the operating procedures seek to include “additional perspectives,” rather than “additional members.”

Decision: All Task Force members present conveyed consensus to rename section C “Additional Perspectives.”

Resignation: The Facilitation Team offered the following revision: The Task Force can make recommendations on how to fill the vacant seat, [including inviting the organization or constituency represented to provide a replacement.](#)

Decision: All Task Force members present conveyed consensus to the above revision.

Consensus decision-making: The Task Force discussed absences and the process of integrating those absent in the decision-making process, particularly if there is not a quorum present.

The Facilitation Team offered the following proposal: *If a quorum (14 members) is not present, the Task Force can utilize electronic polling after the meeting. If polling does not lead to a consensus decision, then Co-Chairs shall decide if the decision needs to come back to the full group.*

Some members expressed concern that this could delay decision-making.

Decision: All Task Force members present conveyed consensus to the following addition: Task Force members pledge to attend all meetings in person if possible; however, electronic or phone participation in meetings will be permitted if necessary.

Decision: With the above revisions, as well as minor grammatical changes identified by the Facilitation Team, all Task Force members present agreed on and finalized the operating procedures.

CO-CHAIR COMMENTS

Chris Page invited the co-chairs to provide opening thoughts and comments.

- Lydia Flora Barlow shared that entering the Criminal Justice Training Center is difficult for her. As a member of the Task Force, she works with people and in facilities that led to the death of a brother; however, she also expressed a deep level of respect to work with this group and in this place to make something better.
- Jon Tunheim noted that the Task Force is positioned to achieve some remarkable change and significant improvements to Washington’s criminal sentencing system. He encouraged the group to stay focused on the task of revising the state’s sentencing practices.
- Representative Goodman thanked everyone for taking the time to engage with the Task Force. He expressed optimism for the group’s work of delving into the Sentencing Reform Act, while cautioning that multiple crucial perspectives would be missing from today’s conversation. He concluded by asking: “How are we notifying the wider audience of people, including media, who might want to engage in this process?”

SENTENCING GUIDELINES COMMISSION PRESENTATION and DISCUSSION

Russ Hauge, Chair of the Sentencing Guidelines Commission (SGC), presented recent findings and recommendations in the SGC’s [“Review of the Sentencing Reform Act.”](#) The goal of the presentation was to enable the Task Force to develop a mutual understanding of the SGC work and report and inform the ensuing Task Force deliberations on its 2019-2020 workplan.

Russ began with background and context on Washington’s criminal sentencing system. Washington has a determinate sentencing system, which means the Legislature plays a strong role in providing sentencing parameters.

The Sentencing Reform Act (SRA) of 1981 created the SGC to promote accountability and equity in the system and to recommend improvements. In 2018, the Legislature tasked the SGC with reviewing the SRA and developing policy recommendations to simplify the sentencing grid. Russ emphasized that the SGC did not fully develop its policy recommendations, but rather saw their effort as the creation of a starting point for the efforts of this Task Force.

The presentation, with an overview of the policy recommendations and two options to simplify the sentencing grid, is online at: <https://ruckelshauscenter.wsu.edu/meetings-and-materials-criminal-sentencing-task-force/>

Questions and Dialogue on Sentencing Grid Options 1 & 2

The following paragraphs capture the questions by and dialog among Task Force members on Options 1 and 2 (see slides 6-13 for an overview; for more details, see pages 17-19 of the Review of the SRA).

Q: How does the current sentencing grid work and how do Options 1 & 2 differ?

R: The current sentencing grid provides a framework for calculating sentences by factoring in the history of felony convictions (“offender score”/horizontal) and the seriousness of the crime (vertical). The corresponding cell stipulates a prison or jail cell range, for example 6-9 months.

- **Option 1** would, among other things, increase prison cell ranges by 20% on the upper and lower ends and change jail cell ranges to 0-365 days, regardless of the “offender score” (see slide 8 for example grid).
- **Option 2** would create a new two-step grid and modify “offender score” and offense classifications (see slides 9-13). Currently, each felony gets classified (A, B, or C) to rate its seriousness, but the sentencing grid does not include A, B, or C; this creates the possibility for Class B and Class C felony convictions to lead to a similar sentence. Option 2 retains the letter system but increases the options (A+ through C-) to ensure different sentencing options get associated with different felony classifications. Option 2’s two-step sentencing process has legislature develop a broad mandatory grid. The courts and judges would then work within a presumptive grid to individualize sentencing.

Q: How did the SGC define “public safety”?

R: The SGC did not explicitly create a working definition but understood that public safety includes more than removing a person who commits a crime from the community. NOTE: the system developed in ethos of “do the crime, do the time.”

Q: Has a racial equity lens been applied to either of these options?

R: Conversations on race and equity will need to be part of a process of further developing and refining these options.

Comments:

- While the sentencing grid itself may appear complicated, additional complexity lies in the calculation of the “offender score” (that calculation gets even more complicated if a person’s history extends beyond Washington).
- Option 2 would permit judges to go beyond the suggested sentencing parameters (whether higher or lower) and explain their rationale before the court.
- In support of judicial discretion, some noted that judges hold elected office and can get voted out of office if their communities no longer deem their opinions fair; others felt that such a process may not work as well in all parts of the state.

Various Task Force members observed that while elected officials (the state legislators) created and tends current system, much of the day to day decisions and discretion are granted by non-elected officials (prosecuting & defense attorneys).

Recommendations for Policy Changes: Sentencing, Supervision, Other

An overview of the SGC policy recommendations can be found on slides 14-24. The following paragraphs reflect the questions by and dialog among Task Force members.

Q: Did the SGC look at including alternatives to confinement within the sentencing grid?

R: The drug sentencing grid attempts that to some degree but bringing alternatives into the grid would increase the complexity of the system. The SGC is now reviewing alternatives to confinement.

Q: Regarding enhancements, would these recommendations be applied retroactively?

R: Enhancements could be eligible for good time, similar to the base sentence.

CommentsPre-Sentence Investigations

Some Task Force members talked about how that Pre-Sentence Investigations (PSIs) can help judges make more informed decisions and individualize sentencing. Others suggested that PSIs would need a consistent process statewide (which would then get implemented locally). A few emphasized the need for corresponding resources to implement, ideally by a reimbursement process.

Supervision

Multiple Task Force members expressed frustration with various aspects of current supervision policies and implementation, noting that eligibility for supervision depends on the crime for which a person was convicted—not their risk of recidivism. Several described ways that supervision feels like a barrier to reintegrating in the community such as the difficulty to travel and testify on legislation. Others noted a need for a conversation on how supervision is experienced and what it means for various communities, particularly impacts of “swift and certain” responses to violations.

Many members support shifting the paradigm of supervision. Some described a shift from an adversarial relationship between an individual and the Department of Corrections (DOC) to one of coaching and mentoring. Though some see a need to house supervision in a new state entity, others pointed to institutional changes as indicators that DOC staff have the commitment to reframe supervision. Specific modifications discussed included adopting a Risk Need Responsivity (RNR) approach to supervision and expanding DOC’s range of options to include more than swift and certain incarceration in their response to violations.

Sovereign Immunity

The Task Force briefly discussed the SGC’s recommendation regarding sovereign immunity. Some acknowledged the need for punitive actions in situations of negligent supervision, while noting that the lack of a sovereign immunity doctrine contributes to a risk-averse approach to supervision.

Reentry

Members also discussed reentry. Specifically, some talked about the effectiveness of frontloading resources and support at the point of reentry, rather than over the course of an extended supervision period.

Evidence and Data

Task Force members expressed the importance of measuring the effects of the current sentencing system, any changes, and the impacts on different communities. Many support using data to inform Task Force recommendations. Members of the Task Force and audience provided overviews of current information gathering efforts separate from, but which may inform Task Force deliberations:

- An assessment of Washington’s RNR program. The Washington State Institute for Public Policy (WSIPP) is using data from December 2017-October 2019 to evaluate the program by looking at how an individual’s risk level may change over time, and whether that lessens the need for supervision. WSIPP plans to release the final report in June 2020.
- At Senator Dhingra’s request, WSIPP is also preparing an assessment on the frequency that the most serious charge at arrest is the most serious conviction charge—by gender, race, age, and county. This report will not include information on which jurisdiction makes the arrest.
- The SGC will release an inventory of alternatives to incarceration utilized at the county level, which will be released spring of 2020.

Disparities

The Task Force also discussed disparities in the criminal sentencing system, articulating the need to look at racial and cultural disparities with the existing system AND with any recommendations considered by the group. Others mentioned disparities at the county level; some saw the SRA as meeting its intent of standardizing sentences across the state, while others noted that different counties treat the same crimes differently.

Credible Messenger Programs

Some noted success with “credible messenger programs” as a means of deterrence. However, such programs are less successful when the government runs them.

POTENTIAL 2019 EARLY ACTION ITEMS & 2020 WORKPLAN

After lunch, the Facilitation Team offered the Task Force the choice of reviewing the results of its September brainstorm exercise and prioritize topics and tasks to develop a workplan or considering potential early action recommendation proposals from Representative Goodman and others. The Task Force decided to look at potential areas of early action for the 2020 Legislative session.

Representative Goodman shared the following six topics for the 2020 Legislative session:

1. Uniform judgment & sentencing forms
2. Concurrent periods of supervision
3. Mandated and funded pre-sentence investigations
4. More discretion in swift and certain response to supervision violations
5. Compliance credit

6. Ranking the unranked crimes

Members of the Task Force provided additional potential recommendations for the 2020 Legislative session, including:

- Delink Legal Financial Obligations (LFOs) from funding for victims' services
- Restoration of voting rights
- Tolling

The Task Force also talked about proposed legislation generated by other individuals and entities that may interest the Task Force (and that relate to its mandate).

The following paragraphs capture potential 2020 topic areas brought forth by the Task Force and the ensuing discussion.

Judgment & Sentencing Forms: Some desire a common form or a consistent worksheet; others pointed to the challenges of creating such a form—both in the development and implementation. Specifically, the lack of a unified (county) court system means many different programs, technology systems, and sentencing forms exist. Others expressed concern that a legislatively-created common sentencing worksheet may penalize individuals who filled it out incorrectly. Several members felt that errors in calculating sentences occur, in part, because the complexity of the calculations—such as challenges tracking tolling or someone's history in the criminal sentencing system. A less complicated sentencing computation could lead to fewer errors and eliminate the need for DOC or any other entity to review a sentencing form.

Concurrent Supervision: Building on the morning's discussion, members observed that consecutive supervision may postpone access to programs or services due to the sequence of base conviction and enhancements. Others noted the SGC unanimously supported concurrent supervision.

Pre-Sentence Investigations: During the afternoon discussion on PSIs, members focused on who would conduct them and how they would be resourced. Some expressed concern that the prosecution would have significant resources, where the defense attorney may be better positioned to ascertain the life circumstances of the defendant. Those familiar with the SGC deliberations shared that the federal court system utilizes an independent PSI writer.

Swift & Certain Responses: As in the morning discussion, some voiced frustration with the "swift and certain" approach to supervision violations and the limited options with which DOC may address such violations.

Compliance Credit: The group again suggested the ability for "goodtime" to be applied in enhancements. Many supported this a 2019 action item, though some suggested this should be addressed in 2020 within the context of examining the full criminal sentencing system.

Ranking Unranked Crimes: The SGC recommends assigning a seriousness level to all unranked felonies. Some expressed support for this; others suggested this should be considered in concert with the examination of the overall sentencing grid.

Legal Financial Obligations (LFOs): Some support examining LFOs, specifically a recommendation to shift how those moneys are used (while ensuring existing programs funded by LFOs are kept whole) or exploring ways to provide additional financial relief. Others brought forth the suggestion for the adult restitution system to emulate the insurance model of the juvenile system. In terms of victims' needs, some suggested that an upfront payment, such as for funeral expenses, may help more and mean more than small payments over an extended period.

Tolling: Supervision is not always seamlessly ongoing, it can be paused while an individual receives mental health treatment or spends time incarcerated (e.g., for a missed court day). Some noted that tolling has the effect of extending supervision without benefits in return and increasing the complexity of knowing when one is under supervision.

Right to Vote: Some members suggested that restoring voting rights to individuals with a felony conviction would restore a sense of enfranchisement in the community, which in turn can help reduce recidivism. Some suggested that the issue of felony voting rights exceeds the scope of the Task Force; others countered that because it (losing voting rights) is a consequence of sentencing, it is part of the sentencing system.

Enhancements: Many members said they could identify specific enhancements and possibly develop recommendations to address clearly excessive sentencing or create opportunities for judges to collapse enhancements.

Legislation related/of interest: Some members shared bills they or their organizations plan to introduce in the 2020 legislative session, on topics such as: opportunities to vacate a criminal record, development of pathways for individuals to volunteer at schools, allowing elderly incarcerated persons to a hearing to revisit base sentence, and bills related to the Drug Offender Sentencing Alternative.

Additional topic/recommendations for consideration (for 2020 Task Force workplan):

- Resources and training to support victim / "offender" dialogues (pre-sentencing)
- Offender score: rename "offender score" and consider whether and how juvenile convictions should be integrated into the adult system
- Sentence calculations: consider ability to revisit drug prosecutions from more than 10-20 years ago
- Conversation on effect of drug convictions in communities
- Diversions, specifically alternatives to incarceration
- Statement regarding need to consider racial impact in sentencing
- Trauma informed care and gender responsive classification
- Independent review of practices

- Budget proviso requests to gather information which would inform group deliberations and recommendations
- What does concurrent v. consecutive supervision look like?

Disparities & Equity: Several members requested to consider racial disparities—where they currently exist and how proposals may reduce or exacerbate them. Some wanted to focus efforts on the areas of the sentencing system with the greatest disproportionalities. Members also encouraged deliberately and thoughtfully looking at potential unintended consequences of any Task Force recommendation across the entire criminal sentencing system.

Information Needs:

Members identified areas of inquiry to help the group make evidence-based decisions:

- Where are the points of greatest disproportionality in the sentencing system?
- What are the situations leading to the need for the 10+ column?

TASK FORCE WORKPLAN & 2019, 2020 REPORT DEADLINES

Members expressed the need for more information promptly in order to have enough time to for conversations with their constituents to gauge comfort and interest in some of these proposals.

The Task Force then spent time developing clusters of topics and a potential work timeline for 2020.

Decision: All Task Force members decided to focus on the following potential early action recommendations at their November 18th meeting:

- Tolling
- Concurrent supervision
- Swift & certain response to supervision violations
- Compliance credit

Action Item (Ruckelshaus Center Facilitation Team): The Task Force asked for potential bill language, bill numbers for legislation introduced in previous sessions, and/or overviews prepared by DOC by November 1 to inform their conversations with constituents prior to the November 18th meeting.

Additional topic/recommendation clusters for 2020 include:

Reentry:

- Legal Financial Obligations
- Voting Rights
- Rehabilitative programs and services

Sentencing Accuracy:

- Judgment & sentencing worksheet
- Pre-sentencing investigations

Additional topics/areas of focus:

- Adult General Disproportionality Report, produced by the Caseload Forecast Council
- Work of the Reentry Council

DRAFTING OF DECEMBER 31, 2019 REPORT

The Facilitation Team provided a proposed outline for the December 31, 2019 preliminary report:

- Purpose of Task Force
- 2019 Accomplishments
 - Overview of meetings, decisions, and agreements
 - Recommendations in principle for 2020 legislative session
 - Conceptual workplan for 2020

In closing, Co-Chair Barlow urged the group to carefully consider “the water in which we swim,” about the real lives and communities affected and to articulate the care in which the Task Force will fulfill their legislative mandate and address racial disparities.

DECISIONS, SCHEDULE, NEXT STEPS, REFLECTION

See the table below for an overview of decisions, action items, and resources mentioned.

Members shared the following thoughts on how they experienced the meeting:

- Still hopeful—we’re developing a rhythm and language for working together
 - Engaging, thought-provoking, and exhausting
 - Conflicted, hearing really good things, but concerned about voices absent
 - Share the optimism, but we still have a huge and daunting task ahead
 - Feel comfort about what the process actually is, optimistic, everyone really cares
 - Optimism. feel that we’re building trust. Impressed by the deep engagement. Concern about reporting to and reflecting back their constituency
 - Thought provoking. See self as a big part of the system
 - Learning so much. Getting some relief, feeling less alone in perspective and appreciative of that community
 - Appreciative to hear perspectives that I would otherwise not hear
 - So much energy around a common goal and direction
 - Very encouraged after 1st meeting, even more after this one. Want to hear voices of those absent
 - Most struck by the level of engagement, level of compassion and engagement
 - Very excited about getting into the substance
 - Today was very educational, want to hear from the missing voices
 - Excited about the energy and the sentiment that the status quo is unacceptable. Excited to be on the forefront of that change
 - Very encouraged that we’re all finding our way even as the scope keeps getting bigger
-

RECAP OF DECISION AND ACTION ITEMS

Task Force Decisions:

- The Task Force accepted the September 30th meeting summary as final (available on website).
- The Task Force made the following revisions to the Operating Procedures (additions in red):
 - Rename section C “Additional Perspectives.”
 - If a member resigns, the Task Force can make recommendations on how to fill the vacant seat, including inviting the organization or constituency represented to provide a replacement.
 - Task Force members pledge to attend all meetings in person if possible; however, electronic or phone participation in meetings will be permitted if necessary.
- With the above revisions to the Operating Procedures, as well as any grammatical changes identified by the Facilitation Team, the Task Force agreed on and finalized the operating procedures.
- Group identified pattern of first Thursdays for 2020 Task Force meetings.
- November 18th meeting will focus on: tolling, concurrent supervision, swift & certain response to supervision violations, and compliance credit.

Task Force Action Items:	Due date/Status:
Members will discuss draft legislation on tolling, concurrent supervision, swift & certain response to supervision violations, and compliance credit with their constituents	Ongoing

Facilitation Team Action Items:	Due date/Status
Provide information on potential early action items (tolling, concurrent supervision, swift & certain, compliance credit) to Task Force members by November 1, so members can meet with their constituencies prior to the November meeting.	Sent by email on 11/1
Provide remote meeting participation option.	In progress
Share report mentioned by Senator Dhingra: <i>Reducing Recidivism with Technology: State of Arkansas and SAP Co-Invention 2019</i> https://www.sap.com/documents/2019/06/84ce1713-557d-0010-87a3-c30de2ffd8ff.html	
Develop 2020 meeting schedule which follows pattern of first Thursdays but also considers holidays.	Sent by email on 11/1. In progress: post on website
Follow up with members unable to attend October meeting.	Left voicemails /messages with all individuals on 10/28

Washington State Criminal Sentencing Task Force Meeting

Summary: November 18, 2019

Criminal Justice Training Center, 19010 1st Ave. S., Burien, WA

Task Force Attendees (in person unless noted):

- Judge Veronica Alicea-Galvan
- Lydia Flora Barlow
- DeVitta Briscoe
- Suzanne Cook
- Lew Cox
- Senator Manka Dhingra
- Rep. Roger Goodman
- Sonja Hallum
- Russ Hauge
- Rep. Brad Klippert
- Gregory Link
- Mac Pevey (on behalf of Sec. Sinclair)
- Judge Judith Ramseyer (on behalf of Judge Rogoff)
- Tarra Simmons
- Clela Steelhammer (attending on behalf of Elaine Deschamps)
- Nick Straley (attending on behalf of Nick Allen)
- Jon Tunheim
- Councilmember Derek Young (phone)

Facilitation Team: Amanda Murphy, Chris Page, and Molly Stenovec – William D. Ruckelshaus Center

WELCOME & INTRODUCTIONS

Project Co-Leads Chris Page and Amanda Murphy welcomed the Criminal Sentencing Task Force (Task Force) and asked members to share name, affiliation, and response to the following question: *What is one topic or issue that you would like to see as the focus of a future meeting?*

Responses included:

- Elimination of the accrual of juvenile record in the adult sentencing system
- BA/AA degree and education opportunities while incarcerated
- Sentencing 101 – how does the current system work?
- Ways to reduce population of incarcerated persons, including retroactive sentencing, sentencing alternatives, and post-sentence reviews
- Reentry, especially exploring ways to welcome individuals back into the community
- Opportunities to increase the quality of supervision, rather than the duration

Many members talked about the need to use data and research to inform their decisions. Some specifically mentioned the need for more data on an individual's gender, race, geography, and convictions to better understand existing disparities. Others cited the need for information to understand the potential impacts of proposals under consideration. A few also talked about the need to collect data to monitor and evaluate the effectiveness of any recommendations made by the group. A member, while acknowledging the desire and utility of data, stated confidence in the information gained by visiting prisons and talking directly with prisoners.

Some members hope the group considers the fiscal impacts of proposals, and others want the group to consider how recommendations might affect families of crime victims. Some also expressed optimism that the group will develop policy recommendations to introduce during the 2020 Legislative Session.

REVIEW AGENDA, DISCUSSION GROUNDRULES and DRAFT MEETING SUMMARY

Due to traffic affecting the timely attendance of several members, the Facilitation Team delayed the start of the meeting and established a conference call option. The final agenda is available on the [Task Force website](#)¹.

The Facilitation Team reminded the group that their task is to develop policy recommendations, rather than legislative language. This meeting will focus on potential early action items related to supervision—not on drafting or editing potential legislation but discussing policy-level considerations or concerns related to each proposal. If the group agrees on a policy change, the facilitation team recommends forming a legislative work group to refine proposed legislation, consistent with the input from the full Task Force.

Decision: All Task Force members present accepted the 10/24/19 meeting summary (also on website) as final.

Amanda and Chris made the following announcements and reminders:

- At its October meeting, the Task Force requested the option to participate by videoconference for those not able to attend in person. Unfortunately, the Criminal Justice Training Center does not have videoconference capabilities. The Facilitation Team explored alternate venues but could not find one available with videoconference capabilities on such short notice. The Center has invested in a portable videoconferencing system and will have it for the December meeting.
- The finalized groundrules and operating procedures are posted [on the website](#). Hardcopies have been included in the binders prepared for all Task Force members.
- Regarding the transmittal email and meeting materials sent on November 11, 2019: The Facilitation Team included verbiage from Kelly Leonard regarding the proposed bill language. This verbiage was not an official policy assessment from the Office of Programs & Research; therefore, it has been removed from the printed materials and documents posted on the website (see URL above).

DISCUSSION ABOUT GUIDING PRINCIPLES

Chris and Amanda presented draft guiding principles for the consideration of the Task Force. The Facilitation Team developed these principles based on the proviso's policy goals and values expressed by the Task Force during the interviews and at their September meeting. The purpose of these principles is to serve as a framework for the Task Force to use when discussing and considering potential recommendations.

Action: The Facilitation Team will post the Guiding Principles in the "Key Documents" section of the meetings and materials website.

COMMENTS FROM THE CO-CHAIRS

- Representative Goodman thanked the members and attendees for participating in the important work of the Task Force. He expressed enthusiasm for the four early action items on the agenda and encouraged the group to consider adding Pre-Sentence Investigations and a statewide sentencing worksheet as early actions for the 2020 Legislative session. Rep. Goodman also encouraged the Task Force to consider asking the Facilitation Team to send meeting notices and materials to interested parties and media outlets.
- Lydia Flora Barlow provided a big-picture context on time and perspective. A hundred years ago, it was highly likely to die of either influenza or war; yet, from our current vantage point, she reflected that we view that time as a period of incredible growth. While the Task Force is in the midst of challenging conversations and members come to the table with diverging viewpoints, she believes that the individuals around the table have never been closer to using the same language and that a hundred years from now, people will view this time as a watershed moment of reform to the criminal sentencing system.
- Jon Tunheim was still in transit.

¹ <https://ruckelshauscenter.wsu.edu/meetings-and-materials-criminal-sentencing-task-force/>

TOLLING OF COMMUNITY SUPERVISION TERMS

Before the presentation on tolling, Mac Pevey provided opening remarks on behalf of the Department of Corrections (DOC). He noted that every day the topics of the four early action items issues impact individuals, communities, and organizations. The current complexity of the criminal sentencing system—from the Judgment & Sentencing Forms to daily record-keeping to sentence/supervision calculations—is challenging for DOC employees to understand and navigate, and even more so for the average citizen. Some of the proposals address this complexity; all the proposals have been informed by data and research. Mac expressed DOC's appreciation of the opportunity to present their proposals and his hope to make complicated topics simple.

Diane Ashlock (DOC) provided an overview of tolling and DOC's proposal (presentation available on Task Force website). DOC is required to "toll" an individual for the time they are unavailable for community supervision. DOC calculates the number of days which the individual is "unavailable" and adds them to the end date of the supervision term. Thus, an individual may be on community supervision and subject to the conditions of that supervision for 12 months, but the 365 days of that supervision may not all be consecutive.

Diane shared that calculating the tolling events and the corresponding end date of a supervision term gets complicated in a variety of ways. This includes:

- DOC still needs to determine if an individual is eligible for supervision, even if the court orders it.
- DOC staff need to understand all 12 pages of rules regarding tolling and the actions that may require tolling.
- With no centralized data system, staff must use four different systems to gather information on booking dates and reasons for incarceration:
 - Jail Booking and Reporting System (JBRS): information must be confirmed to ensure it relates to the correct individual; JBRS has no back up system if data fails to import
 - Judicial Access Browser (JABs): information from Superior, District, and Municipal courts
 - Criminal History Background Checks run through Washington State Patrol
 - DOC Offender Management Network Information System, which requires reading through case files
- DOC staff often also need to confirm information by phone, and may receive different information based on how they phrase questions.

She concluded by stating that on top of being difficult for staff to calculate, current supervision tolling also makes it hard for individuals to understand why their supervision end date often changes.

Proposed legislation: DOC would continue to toll community supervision when an individual is serving original jail time (the period of confinement required before supervision can begin) or has absconded from supervision; however, tolling would no longer occur while an individual is:

- returned to confinement;
- confined for violations of community custody if serving on a current sex offense;
- confined for a separate sentence.

The paragraphs below summarize the ensuing discussion, comments, and question/responses on tolling of community supervision terms.

- *Administration of tolling:* Some members raised concerns about the complexity involved with the many factors that create opportunities for errors, specifically the reliance on humans manually calculating tolling and adjusting supervision end dates combined with the number of systems those individuals must access to make those calculations.
- *Resources:* On fiscal impacts, some suggested that making the system easier to administer and understand is an effective use of resources. DOC encouraged the group to focus on the policy decision, rather than cost savings. Some questioned the human resources required to administer a new tolling system.

- *Intent of Supervision:* Many Task Force members asked the group to consider the intent of supervision—is it to extend a punishment? Or to support and facilitate community integration post-incarceration? If the latter, several pointed to research indicating the importance of support before release and in the first 90 days of release, rather than the length of supervision.
- *Data/Information Needs:* the group requested information about persons on supervision—race, base conviction, recidivism while on supervision, and those tolled due to new arrests, etc. DOC shared the following resources:
 - Agency facts on people incarcerated and on supervision: <https://doc.wa.gov/docs/publications/reports/100-QA001.pdf>
 - Additional statistics: <https://doc.wa.gov/information/data/analytics.htm#web-stats>
 - Demographics of those on supervision is forthcoming.
- *Intent of Tolling:* Some observed that tolling, in part, ensures that an individual fully engages with the terms of their supervision. If a person is confined, they may not have access to programs that support community integration. Some noted that tolling, in part, holds individuals accountable for their actions while on supervision; others noted that not all crimes should automatically delay reentry and that many current tolling events may not affect public safety. Regarding the latter, some suggested that judges need to be able to consider more context, including Pre-Sentence Investigations and alternatives to incarceration.
- *Statement from Washington Association of Sheriffs and Police Chiefs, Executive Board:* Representative Goodman shared this statement on behalf of Chief Rafael Padilla, who could not attend the meeting:

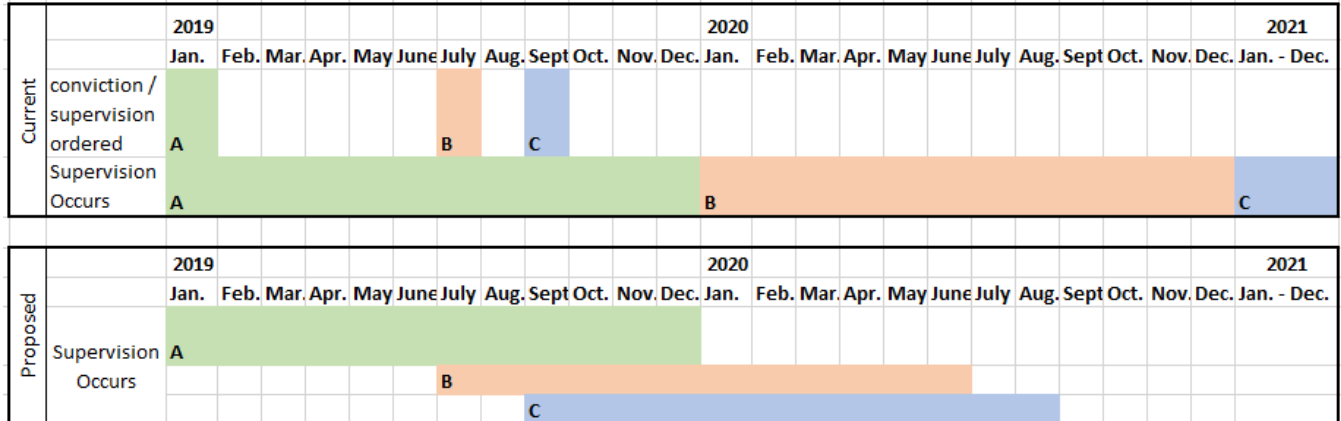
“Reform in the criminal justice system should be based on public safety outcomes and should not ignore concern for law enforcement, victims of crime, and justice. Assisting offenders with reentry and reducing recidivism is good for public safety. Achievement of these goals are worth our state’s investment of time, money, and resources.”
- *Additional comments/reflections:*
 - If looking at tolling from a community perspective, “unsuccessful” days on supervision may be a result of difficulties in getting to their court dates.
 - Not all people convicted of a felony are eligible for supervision. Current policy requires DOC to supervise people convicted of sex crimes for the remainder of their natural life but does not allow supervision of those who may most benefit from additional support and mentoring upon release.
 - There is a tension between longer supervision terms and quality of supervision experience.
 - In addition to discussing punitive measures, the group should discuss incentives such as opportunities for individuals to reduce supervision with good “behavior.”
- Some members reflected that some tolling may not actually improve supervision outcomes, since some of the greatest barriers to good supervision outcomes lie with consecutive terms of supervision.
- The tolling proposal does not give DOC discretion to determine when tolling occurs, rather it provides much more clarity on the relationship between tolling and active supervision terms.

Decision: all members present accepted the following revisions to the meeting agenda:

- Concurrent Community Supervision (presentation followed by Q&A)
- Supervision Compliance Credit (presentation followed by Q&A)
- Swift & Certain Count (presentation followed by Q&A)
- After all presentations, apply the following discussion questions to each topic:
 - *Anything you don’t understand or that needs more clarity?*
 - *Anything that concerns you or that you would need addressed before you can be thumbs sideways or up?*
 - *Is this bill/recommendation consistent with the Task Force principles identified in the budget proviso and draft guiding principles?*

CONCURRENT SUPERVISION

Mac Pevey (DOC) provided an overview of consecutive and concurrent approaches to supervision. The graphics below recreate his whiteboard drawings.



Current statutes lack clarity on the relationships among existing supervision terms and any additional terms the court may order. The graphic shows how an individual may receive three 12-month supervision terms over the course of 2019, but current law states that (unless explicitly ordered as concurrent) the terms are served consecutively—one supervision does not start until the prior term ends; nor does the treatment that would be required as a condition of the subsequent violation.

Any tolling event(s) in 2019 would not only adjust the end date of supervision A (which could be for a drug related crime) but also adjust the start date of Supervision C (which could be for a domestic violence-related crime). Under the current system, according to Mac, DOC is not able to fully supervise an individual and account for all their needs because of the need to sequencing supervision terms and corresponding conditions (e.g., anger management or cognitive behavior therapy for domestic violence would not start until well after that violation).

DOC proposes changing the presumption from consecutive to concurrent terms of supervision. Under this approach, a judge could still require consecutive terms, but by default an individual could be “supervised” for multiple convictions at the same time. The start date of a supervision term would begin with sentencing, rather than waiting for one supervision to end. If tolling event occurs, then all supervisions are paused simultaneously.

The paragraphs below summarize the ensuing discussion, comments, and question/responses on concurrent and consecutive community supervision:

- **Q:** Does DOC have the computer model to be able to keep up with this system? **R:** Yes.
- Under consecutive supervision terms, a person cannot enroll in a program for domestic violence until they reach that point in their supervision sequence. A sentencing judge may know whether an individual is on DOC supervision and has the discretion to order concurrent supervision but must be explicitly directed.
- **Q:** Why did this proposal fail in the past? **R:** Partly due to a perception that shorter supervision terms could be seen as against public safety and partly due to opposition by Washington Federation of State Employees and the Teamsters Local 117. Some noted that this process could benefit from engaging those entities.
- **Q:** Would this proposal affect the adult supervision grid? **R:** No.
- Comment: tolling, consecutive/concurrent, positive achievement, and swift and certain response all intersect in places. These proposals should provide more clarity on what to expect during supervision.
- **Q:** Could you provide more information on the 24-month cap? **R:** While supervision terms for misdemeanor convictions must be consecutive, if someone is on misdemeanor supervision then convicted for another misdemeanor, the supervision cannot extend longer than 24 months. The cap does not apply to felony-related supervision.

- Some expressed concern that while a recommendation may have good intent, the benefit or change may not actualize due to either:
 - A conflict with other existing statutes,
 - Future misinterpretation of the recommendation, or
 - Unintended consequences arising.
 Thus, a possible task for the legislative work group would be to map out the cascade of RCW (Revised Code of Washington) revisions and other systemic effects of recommendations.
- Several stated concern about the demographics of individuals currently on supervision and those who stand to most benefit or suffer harm from proposed changes.
 - ACTION: The Facilitation Team will forward documents and links to relevant reports from DOC.

SWIFT & CERTAIN VIOLATION MODEL

Mac Pevey (DOC) reviewed the existing “swift and certain” violation model and the proposed changes. In the existing Swift and Certain Count model, low-level violations (excluding the first) may result in brief confinement; the fifth low-level violation of supervision terms automatically equals a high-level violation. The proposal would eliminate the “process count,” which would allow DOC to better discern between high-level² and low-level violations³ and to consider an individual’s behavior and stability in the community.

DOC responds differently to supervision violations for individuals on supervision for any of 21 specific underlying crimes (“Underlying 21”). Individuals on supervision for any of the “Underlying 21” who get arrested with a new crime are confined for up to 30 days, even if the prosecution never files charges. The proposal would eliminate the “Underlying 21,” which would create consistency in how DOC responds to all supervision violations.

The paragraphs below summarize the ensuing discussion, comments, and question/answers on the Swift & Certain Violation Model and the Underlying 21:

- Regarding the Underlying 21:
 - If an individual has been convicted of a crime, served time, and while on supervision gets arrested for a low-level violation (e.g., stealing a candy bar or driving while license suspended), the subsequent arrest results in 30 days of confinement.
 - Some cited the restrictions of working in a system requiring automatic actions, noting the need to consider the intent and circumstances of current actions.
 - Others felt that some crimes and actions should be given special considerations.
 - A few expressed the need to make a distinction between past actions, no matter how awful, and the present.
 - The intent of this approach may have been to allow the supervision officer to make an arrest and provide time for the prosecution to gather evidence and for the pre-trial process to commence.
 - The 30-day confinement (even if charges) are dropped may be an unintended consequence of that approach.
- DOC already has a list of low-level and high-level violations to supervision. Neither proposal would change how the agency responds to those violations.
- Some suggested the following questions are relevant: *How often does an individual violate supervision? How does the Underlying 21 approach affect supervision compliance?*

POSITIVE ACHIEVEMENT TIME, aka COMPLIANCE CREDIT

Mac Pevey (DOC) reviewed the proposal to establish a policy of Positive Achievement Time (PAT). DOC has many tools to *discourage* behaviors and hold individuals accountable for their actions, but no tools to *encourage* and

² For example, new offense behavior or contact with victim

³ For example, failure to report to treatment group or a positive drug test

incentivize positive actions. Proposal: for every month of supervision compliance, an individual could earn time off their overall term of supervision. The accrued PAT could be revoked as the consequence of a violation to supervision terms.

The paragraphs below summarize the ensuing discussion, comments, and question/answers on PAT:

- This proposal would not affect individuals in any of the existing alternatives to sentencing.
- The opportunity to shorten time on supervision is an incredible motivator for many in the Drug Offender Sentencing Alternative system and other programs.
- Some suggested that PAT implies that the community corrections officer has more of a case worker model, rather than merely enforcement officer (statute currently requires the latter model). Some questioned whether DOC is the appropriate entity to provide a coaching and mentoring approach to supervision.

The Facilitators led a check-in with the group, asking each member to respond to the following questions: *Where are you on these proposals? What do you hope we accomplish for the rest of the day?*

- Some described the day as a crash course in complexity; others shared that, despite years of immersion on these issues, they found themselves hearing new perspectives and nuances that will inform their work.
- A few noted that the presentations included summaries of complicated issues and proposals informed by bodies of research and data, commenting that Task Force deliberations need to continue to be informed by (and build on) existing research.
- Many expressed an appreciation for the conversation, for hearing from many different perspectives on difficult topics. A few noted that while the group examined discrete proposals, they held those proposals in the larger and philosophical context of the values and purpose imbedded in the criminal sentencing system. Several voiced a need for these conversations to include more data and research.
- Some felt that the proposals wouldn't exacerbate existing disproportionalities, while others expressed concern about a lack of data or that the proposals may not have the intended effect of reducing disparities.
- Several hope that the group could reach consensus on fundamental changes to the criminal sentencing system, while also acknowledging the huge task(s) ahead.
- Others noted that while the group may not be near agreement on all issues, they appreciate the opportunity to build relationships and hope that relationship building continues.
- On potential early action items:
 - Individuals expressed appreciation for focus on restoration and positive reentry, public safety, and that each allows for an individualized approach to accountability.
 - Many expressed hopes that the group could reach consensus on at least concurrent supervision and positive achievement time.
 - Some raised concerns with respect to tolling and swift and certain response.
 - A few voiced support for all proposals.
 - Some shared concerns that the proposals simply repackaged the existing system or that the group wouldn't delve deeper in 2020 on issues that they "solved" at this meeting.

Amanda Murphy observed that many members talked about a need for more information and learning generally, and for the early action proposals specifically that it sounded as if the group supported pursuing recommendations on concurrent supervision and PAT. As per the agenda revision discussed earlier, the group then applied the discussion questions to each of the four topics, starting with concurrent supervision and positive achievement time due to the energy around those proposals.

Concurrent supervision:

- **Q:** How would the proposal differ from current policy? **R:** Currently the default with multiple terms of supervision is that they get served consecutively; the proposal would make concurrent the presumptive. This policy would apply retroactively and apply to those in supervision regardless of the level of offense.

- **Q:** What are the distinctions among community placement, community supervision, community custody? **R:** These terms used to have different meanings, but now can be used interchangeably. Concurrent would apply to all types of supervision.

Decision: all members present conveyed consensus to the following proposal:

"The changes clarify the presumption of community custody to be concurrent for both instances in which multiple terms of community custody can exist:

- 1. Between multiple current counts contained in one sentencing; and*
- 2. When individuals have a current term of community custody ordered who also still have a term of community custody from a prior, unfinished term.*

The changes allow the courts discretion to expressly order terms be served consecutively. The proposal includes a provision relation to sentences that were imposed prior to the effective date of this bill which gives clear direction to DOC to set the relationship between multiple causes and/or sentences as concurrent unless the court had ordered otherwise."

Positive achievement time:

Q: How would DOC calculate PAT? **R:** PAT could be earned based on months in compliance with the terms of an individual's supervision.

Members shared the following concerns:

- That this will continue to disproportionately benefit white people;
- That DOC is the appropriate agency to fill role of case manager;
- That PAT could be revoked.

Some suggested that creating a new program provides an opportunity for data collection and reporting. Some suggested that revoking PAT could be a way to issue a sanction without incarceration.

DECISION: All members present reached consensus to the following recommendation:

"Positive Achievement Time (PAT), may only be awarded to individuals who have clearly shown positive behavior. Compliance with supervision plus completion of specific treatment, programming or reentry goals, may result in the granting of PAT. The result is that higher performing individuals will move off supervision move off of supervision more quickly, thereby allowing DOC to focus limited resources on those individuals who need it the most. DOC shall collect data by race, gender, age, location of those granted PAT and of those with PAT revoked."

Swift & Certain:

In terms of concerns, members shared the following:

- That a Task Force proposal doesn't result in DOC developing a practice of issuing more violations;
- That while an individual may need time, they also need to be held accountable for repeated violations to their supervision;
- That an automatic violation count feels arbitrary;
- That the existing SAC approach contributes to community instability; and
- That inclusion of "may" in a recommendation results in inconsistent approaches.

Some expressed a need for a Community Custody Officer (CCO) to make decisions based on the unique needs and circumstances of an individual without contributing to inconsistencies and disproportionality.

DOC has developed a supervision behavior accountability grid.

ACTION: The Facilitation Team will forward that information to the group.

The group considered and did not reach consensus on the following proposal: After an offender has committed and been sanctioned for five low level violations, ~~all~~ subsequent violations committed by that offender ~~shall~~ may automatically be considered high level violations.

2020 Task Force Workplan

To enable deeper dialogue on important issues and give complex topics the time and attention they deserve, the Facilitation team recommends formation of three working groups to meet between Task Force meetings and bring to the full group “first offer” proposals of how to address key challenges. The three workgroups are:

1. Reentry/supervision
2. Accuracy and the sentencing grid
3. Legislative (comprised of the Legislators and Co-Chairs to develop draft legislation in-line with the policy recommendations developed by the full Task Force).

In closing, Amanda Murphy asked each member to use one word to describe their current feelings. Members shared the following:

- | | | |
|--------------|----------------|--------------|
| • Positive | • Hopeful | • Willing |
| • Encouraged | • Appreciative | • Eager |
| • Exhausted | • Hopeful | • Exhausted |
| • Encouraged | • Achievement | • Hopeful |
| • Encouraged | • Hopeful | • Processing |

RECAP OF DECISION AND ACTION ITEMS

Task Force Decisions:

- The Task Force accepted the October 24th meeting summary as final (available on website).
- Members recommend the following policy changes:
 - Concurrent Community Supervision: The changes clarify the presumption of community custody to be concurrent for both instances in which multiple terms of community custody can exist:
 1. Between multiple current counts contained in one sentencing; and
 2. When individuals have a current term of community custody ordered who also still have a term of community custody from a prior, unfinished term.

The changes allow the courts discretion to expressly order terms be served consecutively. The proposal includes a provision related to sentences that were imposed prior to the effective date of this bill that gives clear direction to DOC to set the relationship between multiple causes and/or sentences as concurrent unless the court had ordered otherwise.

- Positive Achievement Time (PAT) may only be awarded to individuals who have clearly shown positive behavior. Compliance with supervision plus completion of specific treatment, programming or reentry goals, may result in the granting of PAT. The result is that higher performing individuals will move off supervision more quickly, thereby allowing DOC to focus limited resources on those individuals who need it the most. DOC shall collect data by race, gender, age, location of those granted PAT and of those with PAT revoked.

Task Force Action Items (items emerging from Nov. 18 th meeting are in italics):	Due date/Status:
Members will discuss draft legislation on tolling, concurrent supervision, swift & certain response to supervision violations, and compliance credit with their constituents	Ongoing

Facilitation Team Action Items (items emerging from Nov. 18 th meeting are in italics):	Due date/Status
<i>Post the Guiding Principles in the "Key Documents" section of the meetings and materials website.</i>	
<i>Forward documents and links to relevant reports from DOC on individuals on supervision.</i>	
<i>Forward supervision behavior accountability grid used by DOC.</i>	
Provide information on potential early action items (tolling, concurrent supervision, swift & certain, compliance credit) to Task Force members by November 1, so members can meet with their constituencies prior to the November meeting.	Sent by email on 11/1
Provide remote meeting participation option.	Available for Dec. 6 th meeting.
Share report mentioned by Senator Dhingra: <i>Reducing Recidivism with Technology: State of Arkansas and SAP Co-Invention 2019</i> https://www.sap.com/documents/2019/06/84ce1713-557d-0010-87a3-c30de2ffd8ff.html	
Develop 2020 meeting schedule which follows pattern of first Thursdays but also considers holidays.	Sent by email on 11/1 and posted on website.
Follow up with members unable to attend October meeting.	Left voicemails /messages with all individuals 10/28

Task Force Parking Lot (items emerging from Nov. 18 th meeting are in italics):	Due date/Status
<ul style="list-style-type: none"> - would like to revisit practice of showing up to jobs with full armor, - lack of access to legal support while in supervision - monitoring/evaluation and data collection – what other parts of the system should we be evaluating? - Sentencing worksheet - Pre-Sentencing Investigations 	

Washington State Criminal Sentencing Task Force
DRAFT Meeting Summary: December 6, 2019
Criminal Justice Training Center, 19010 1st Ave. S., Burien, WA

Task Force Attendees (in person, all day unless noted):

- Judge Veronica Alicea-Galvan (p.m. only)
- Nick Allen
- DeVitta Briscoe (p.m. only)
- Suzanne Cook
- Senator Manka Dhingra
- Rep. Roger Goodman
- Sonja Hallum
- Russ Hauge
- Rep. Brad Klippert
- Carolina Landa (on behalf of Lydia Flora Barlow)
- Gregory Link
- Senator Mike Padden
- Judge Roger Rogoff
- Secretary Stephen Sinclair
- Angee Schrader (on behalf of Tarra Simmons)
- Chief James Schrimpscher (a.m. only)
- Clela Steelhammer (attending on behalf of Elaine Deschamps)
- Jon Tunheim
- Chief Rafael Padilla
- Councilmember Derek Young (a.m. only)

Facilitation Team: Amanda Murphy, Michael Kern, and Molly Stenovec – William D. Ruckelshaus Center

WELCOME and INTRODUCTIONS

Project Co-Lead Amanda Murphy welcomed the Criminal Sentencing Task Force (Task Force) and asked members to share name, affiliation, and response to the following question: *What would you like to take away from this meeting?*

Many members described tangible outcomes: a more developed 2020 work plan, a nearly final initial report, and as many early action items as possible. Others hoped to gain better understanding of others' perspectives and a sense of accomplishment. Many emphasized that while the group has a deadline to submit a preliminary report, they hope the group takes the time to consider the philosophical and systemwide impacts of potential recommendations.

REVIEW AGENDA, DISCUSSION GROUNDRULES and DRAFT MEETING SUMMARY

The Task Force reviewed sections of its operating procedures on the definition of consensus and the process for consulting members absent when a decision was made. The Task Force also reviewed that, while the operating procedures urge the Task Force to work hard toward reaching consensus, in instances where the group cannot reach consensus, the pros and cons of the different alternatives can be presented in a succinct manner in the Task Force's reports.

Members did not suggest any revisions or clarifications to the November meeting summary. The Facilitation Team noted that Lew Cox needed to be added as a meeting attendee.

Decision: all members present¹ accepted the November meeting summary as final with the correction noted above.

COMMENTS FROM THE CO-CHAIRS

- Lydia Flora Barlow could not attend this meeting.
- Jon Tunheim thanked everyone for taking the time to participate in the Task Force and expressed enthusiasm for the discussions ahead.
- Representative Goodman expressed appreciation for the engagement from members and attendees. He noted the progress the group has already made, including two early action recommendations, on a gargantuan task. He also expressed enthusiasm for the work in 2020.

DISCUSS and PROVIDE FEEDBACK ON DRAFT REPORT

Amanda reviewed the draft December 2019 report to the Legislature prepared by the Ruckelshaus Center (Center) on behalf of the Task Force. The report includes language from the budget proviso, a short recap of each 2019 meeting, the early action recommendations, and a draft 2020 work plan (it will include more information on the Center and full meeting summaries as attachments). Members provided grammatical and clarifying feedback and suggested changing references to Positive Achievement Time or “good time” to “compliance credit”.

The group discussed topic areas it considered for early action recommendations at its November meeting. Some expressed concerns about who conducts community supervision and how it is conducted; a few about the caseload volume under Department of Corrections (DOC) management. Others noted that the recommendations will align Washington with national research and would allow DOC to better allocate resources to individuals who need the most support.

Decision: all members present conveyed consensus to the overall approach to the initial report with the following modification: that all references to positive achievement time be switched to “compliance credit.”

Note: The meeting was ahead of schedule, so the Task Force reviewed a draft 2020 work plan developed by the Facilitation Team, a conversation it continued in the afternoon. For cohesion, this summary includes both discussions as one segment later in this document.

TOLLING OF COMMUNITY SUPERVISION TERMS

Mac Pevey (DOC) provided a brief overview of tolling². Tolling occurs when an individual is unable to participate in the terms of their community supervision, either because they are in confinement or otherwise unavailable. Each tolling event requires DOC staff to recalculate the end date of that term of supervision. DOC seeks changes that would reduce the number of events that cause tolling to occur. Mac also suggested the group think of this proposal as “truth in sentencing” or “truth in supervision” since currently, tolling events lead to constantly changing supervision end dates.

¹ Exception: Senator Padden abstained from the decision since he did not attend the November meeting.

² More information on Tolling can be found with the November 2019 meeting materials at:
<https://ruckelshauscenter.wsu.edu/meetings-and-materials-criminal-sentencing-task-force/>

To summarize the ensuing discussion, comments, and question/responses on tolling of community supervision terms:

- Some members raised concerns about eliminating confinement for a separate charge as a tolling event. Specifically, if the “supervision clock” continues to run while an individual is in confinement, they have less time available to access programs and services in the community.
- Others felt rushed and identified needs for additional information and/or a conversation about factors contributing to recidivism while on supervision and how to address root causes such as homelessness, addiction, mental health, etc.
- DOC would like a less complicated process to administer and the ability to focus resources for an individual in crisis, rather than just an extension of time on supervision.
- *Public safety*: A few noted that law enforcement currently sits on the front line of how community supervision plays out in the community. DOC representatives shared that the agency is seeking to reduce recidivism, which increases public safety; however, the agency needs the ability to reallocate resources.
- Several observed that only a few states in the country utilize “tolling.”
- Others clarified that community supervision is not 24-hour supervision, but rather minimal contact once a month.
- *Eligibility*: Some expressed concern that an individual’s eligibility for supervision does not lie with the sentencing judge, or align with best available research. Specifically, individuals convicted of property crimes do not qualify for supervision or other resources/programs to facilitate their reentry, despite research indicating the value of such programs reducing recidivism.
- A few suggested ways to reframe the conversation for 2020. Suggestions include:
 - Rather than look at list of tolling events that DOC would like to keep, the group could consider the full list of current events which cause tolling, and then make recommendations on which should be eliminated.
 - Think of community supervision as the length of time and way in which DOC engages with a person who is reentering the community after a period of incarceration (rather than an extension of punishment).

Decision: all members present conveyed consensus to include tolling in their 2020 work plan, and for the consideration of the Reentry and Reducing Recidivism Working Group, but not as an early action item.

SWIFT and CERTAIN COUNT, PART I

Amanda Murphy reminded the group that the Task Force discussed both the “swift and certain” count and the “underlying 21” designation³ at its November meeting, suggesting the group focus on the former as a potential early action item. Mac Pevey (DOC) then reviewed DOC’s proposal and rationale. With respect to swift and certain count, DOC proposes to eliminate the process count for low-level violations. The agency would continue to address violations to community supervision terms, while considering the severity of the violation and the individual’s unique circumstances.

³ More information can be found with the swift and certain packet in the November 2019 meeting materials at: <https://ruckelshauscenter.wsu.edu/meetings-and-materials-criminal-sentencing-task-force/>

He described a common example: an individual receives five citations for positive urine analysis early in their supervision term and then, after several months of progress, that individual fails to properly communicate to their Community Corrections Officer (CCO) and receives a “failure to report” as a sixth low-level violation. The resulting 30 days of confinement, he noted, can hinder that individual’s ability to maintain the things supporting their reentry – job, housing, etc. According to Mac, the existing process count (of five low-level citations making a sixth automatically high-level) was based on a best guess and a need to provide consistency as to how CCOs dealt with violations to supervision terms.

The paragraphs below summarize the lengthy discussion, comments, and question/responses.

- Some support discretion to allow a CCO with face-to-face relationship to consider an individual’s unique circumstances. Others expressed concern about DOC’s capacity to manage its existing caseload or track supervision violations; a few noted that discretion may lead to disproportionality/bias.
- With respect to individual accountability, some saw a need to differentiate between high- and low-level violations; others want to maintain the swift and certain count to address the volume of low-level violations.
- Some suggested the group should consider the high population of incarcerated individuals. Full facilities mean that a CCO needs to spend time transporting an individual to a facility with space.
- **Q:** what is the current process for an individual to challenge violations/sanctions? **A:** The 1st-5th low-level violations lead to three days of confinement—that time has already elapsed by the time a person could appeal. The sixth violation can be challenged via a grievance process.
- Some raised concerns about DOC continuing to manage community supervision; others urged reforming the existing system, rather than build a new one. DOC representatives stated that their proposals would allow the agency to support more effective reentry and supervision.

The Task Force considered several potential proposals, including:

- Presumption of confinement after a certain number of violations, unless an individual has demonstrated other benchmarks towards progress;
- Development of supervision violation grid;
- The following revision to statute: “After an offender has committed and been sanctioned for five low level violations, ~~all~~ subsequent violations committed by that offender ~~shall~~ **may** automatically be considered high level violations.”
- The following revisions to the DOC proposal:
 - Remove statutory language regarding responses to violations of conditions of community custody behavior that differentiates sanctions based solely on the number of low-level violations, creating a system **(based on best practices)** that ~~is fair and just given the personal liberty impacts~~ **more effectively fosters successful reentry.**
 - The group also considered whether to include the following sub-bullets:
 - DOC will continue to define low-level and high-level violations in policy, as well as factors that may mitigate or aggravate a specified response. Violation level will be based on risk and the seriousness of the behavior. Clear definitions promote consistent responses to violations.

- DOC will outline in policy a range of allowable sanctions, which will include both confinement and non-confinement options consistent with RCW 9.94A.633.
- Community Corrections Officers will continue to impose sanction for low level violations. High level violations will continue to be addressed through a DOC hearing/review, with sanctions imposed by the presiding Hearing Officer.

Decision: all members present conveyed consensus to include swift and certain count in their 2020 work plan, rather than as an early action item.

JUDGMENT and SENTENCING (J&S) FORMS

Amanda Murphy asked Representative Goodman to share opening remarks on this topic, before opening the floor for comments and questions from the full Task Force. Representative Goodman noted that J&S forms, which communicate court decisions to DOC, differ in every county. Roughly 10% of the forms contain inaccuracies.

Several years ago, he co-sponsored a bill with Senator Padden to develop a common sentencing calculation worksheet for judges to utilize. The bill was near passage in the Senate and the House but was withdrawn because DOC requested the opportunity to work with the Administrative Office of the Courts (AOC) to develop a form. He encouraged the Task Force to include a recommendation on a sentencing worksheet as an early action item.

To summarize the ensuing discussion, comments, and question/responses on J&S forms:

- Many expressed concerns with respect to a common worksheet/form. Some raised concerns about using legislation to create a new form that could also (like the J&S forms) get filled out incorrectly.
- Others questioned the ability of a form to address sentencing inaccuracies, noting that individuals may differ in their interpretation of the statute and therefore differ in sentencing calculations.
- Judge Rogoff shared that judges and DOC have renewed their conversations and would like time to continue. He is willing to work with those entities to develop a timeline to share with the Legislature.
- A few expressed the desire for an improved process for DOC to communicate errors, for parties to return to the courts, and for parties to communicate with the AOC. The group considered a proposal that would require DOC to follow up with the courts. DOC staff said they already do some follow up work and expressed concern about the capacity to follow up on all J&S forms.

Decision: all members present conveyed consensus to include Judgement & Sentencing Forms in their 2020 work plan, and for the consideration of the Sentencing Effectiveness Working Group.

PRE-SENTENCE INVESTIGATIONS

The Task Force considered pre-sentence investigations (PSI) as an early action recommendation. To summarize the ensuing discussion, comments, and question/responses:

- Russ Hauge noted that the Sentencing Guidelines Commission (SGC) strongly recommended increasing the use of PSIs; however, he urged the Task Force not to consider PSIs for early action. The SGC envisioned PSIs adding value to a sentencing system where a judge had more leeway to issue supervision, and the conditions and length of that term. To make informed decisions, a judge

would need more information from PSIs. The SGC envisioned PSIs as a work product that a judge would have more than 10 minutes to read, with enough time to influence his/her decision.

- **Q:** Should PSIs be presumed mandatory? Who could/should conduct them? **A:** The SGC does not recommend mandatory PSIs.
- The counties are well positioned to conduct the work of PSIs, since there is value in the work done at the local level, and counties already have expertise about people standing before the court. However, the Legislature would need to provide resources and clear guidelines to ensure consistent implementation of PSIs.
- Several members observed that PSIs once were common (at least in some jurisdictions), but legislation authorized the cut during the Recession. In the era of PSIs, DOC used to have a person assigned to a court – which required significant resources.
- Some noted the conversation should not focus on the value of PSIs, but on who could conduct PSIs, when, and how to provide the necessary resources.
- Some mentioned the need to utilize lessons learned, to ensure consistency in the way PSIs get conducted, to minimize disproportionality, utilize trauma-informed care, and provide space for the individual to have a say in the authorship of that report.

Decision: all members present conveyed consensus to include pre-sentence investigations in their 2020 work plan, and for the consideration of the Sentencing Effectiveness Working Group.

Information needs identified by the group: common understanding of information collected and documents which currently exist which could be integrated into a pre-sentence investigation.

2020 Work Plan

Amanda introduced a draft Task Force 2020 work plan the Facilitation Team developed. The work plan considered Task Force work to date, input from interviews with Task Force members, and requirements of the budget proviso. The full 2020 work plan is posted online and will be included with the Task Force's 2019 report. The Facilitation Team recommends that the Task Force create two working groups to identify the research and information needed, and to develop and present preliminary recommendations for the full group to consider.

Questions/comments:

- Suggestion to switch February and March topics, so legislators could participate in the conversation on disproportionality.
- Request to hold meetings in Olympia during the legislative session, to allow legislators and others beholden to the legislative calendar to attend.
- Suggestion that the "Sentencing Accuracy Working Group" be renamed "Sentencing Effectiveness Working Group."
- Others suggested clarifying the role and timeline for the Legislation Working Group.
- **Q:** Would it be possible to engage subject matter experts or individuals from relevant Legislative committees? **A:** Yes – the operating procedures provide guidance for engaging other perspectives. The Task Force could direct the Legislation Working Group to work with additional committees and/or individuals. The Working Group will meet by phone/video conference, so can easily have subject matter experts join for a presentation or discussion.

- **Q:** How will working groups be assigned? **A:** After some discussion, the group decided each Task Force member should select the working groups (s) of interest.
- The Center will share meeting dates for all working group meetings with the entire Task Force.

Decision: all members present conveyed consensus to the work plan and overall approach for three working groups: Legislation, Reentry and Reducing Recidivism, and Sentencing Effectiveness.

Working Groups:

Legislation Working Groups: Lydia Flora Barlow, Senator Manka Dhingra, Representative Roger Goodman, Representative Brad Klippert, Senator Mike Padden, Jon Tunheim.

Sentencing Effectiveness Working Groups: Diane Ashlock, Senator Manka Dhingra, Judge Veronica Galvan, Representative Roger Goodman, Russ Hauge, Gregory Link, Judge Roger Rogoff, Tarra Simmons, Clela Steelhammer, Jon Tunheim.

Reentry and Reducing Recidivism Working Groups: Nick Allen, DeVitta Briscoe, Suzanne Cook, Sonja Hallum, Representative Brad Klippert, Secretary Stephen Sinclair, Clela Steelhammer, Jon Tunheim.

DECISIONS, SCHEDULE, NEXT STEPS, REFLECTION

See table below for a summary of decisions and action items.

Members shared the following responses to the reflection questions: *What are you taking away from your work this year? How do you feel going into 2020?*

Many members expressed gratitude—for the opportunity to participate, for people’s candor, for the extent that the group has a shared purpose of improving the criminal sentencing system. Looking forward, many members expressed motivation and optimism for the work ahead.

RECAP OF DECISION and ACTION ITEMS

Task Force Decisions:

- The Task Force accepted the November 18th meeting summary as final (available on website).
- Members agreed to the overall approach to the initial report with the following modification: that all references to positive achievement time be switched to “compliance credit.”
- Members recommend the following topics to be further discussed in 2020:
 - Tolling of community supervision terms;
 - Swift and certain count;
 - Judgement and sentencing forms; and
 - Pre-sentence investigations.
- Members agreed to the draft work plan and overall approach for three working groups: Legislation, Reentry and Reducing Recidivism, and Sentencing Effectiveness Working Groups.

Task Force Action Items (items emerging from Dec. 6 th meeting are in <i>italics</i>):	Due date/Status:
<i>If absent at December meeting, please email molly.stenovec@wsu.edu to communicate which, if any, working groups you would like to join.</i>	
Members will discuss draft legislation on tolling, concurrent supervision, swift & certain response to supervision violations, and compliance credit with their constituents	Ongoing

Facilitation Team Action Items (items emerging from Dec 6 th meeting are in <i>italics</i>):	Due date/Status
<i>Convene Legislation Working Group.</i>	Completed (first call)
<i>Begin to schedule Sentencing Effectiveness and Reentry and Reducing Recidivism Working Groups.</i>	
Post the Guiding Principles in the “Key Documents” section of the meetings and materials website.	Posted.
Forward documents and links to relevant reports from DOC on individuals on supervision.	Posted.
<i>Forward supervision behavior accountability grid used by DOC.</i>	
Provide information on potential early action items (tolling, concurrent supervision, swift & certain, compliance credit) to Task Force members by November 1, so members can meet with their constituencies prior to the November meeting.	Sent by email on 11/1
Provide remote meeting participation option.	Available for Dec. 6 th meeting.

Share report mentioned by Senator Dhingra: <i>Reducing Recidivism with Technology: State of Arkansas and SAP Co-Invention 2019</i> https://www.sap.com/documents/2019/06/84ce1713-557d-0010-87a3-c30de2ffd8ff.html	
Develop 2020 meeting schedule which follows pattern of first Thursdays but also considers holidays.	Sent by email on 11/1 and posted on website.
Follow up with members unable to attend October meeting.	Left voicemails /messages with all individuals 10/28

Task Force Parking Lot (items emerging from Nov. 18 th meeting are in italics):	Due date/Status
<ul style="list-style-type: none"> - would like to revisit practice of showing up to jobs with full armor, - lack of access to legal support while in supervision - monitoring/evaluation and data collection – what other parts of the system should we be evaluating? - Sentencing worksheet - Pre-Sentencing Investigations 	

Appendix C. Operating Procedures

The Washington State Criminal Sentencing Task Force Operating Procedures - approved

PURPOSE

The Task Force shall review state sentencing laws, including a consideration of the report of the sentencing guidelines commission required by section 129, chapter 299, Laws of 2018. The Task Force shall develop recommendations for the purpose of:

- (a) Reducing sentencing implementation complexities and errors;
- (b) Improving the effectiveness of the sentencing system;
- (c) Promoting and improving public safety.

Initial Report – December 31, 2019: The Task Force shall submit an initial report, including findings and recommendations, to the governor and the appropriate committees of the Legislature by December 31, 2019.

Final Report – December 31, 2020: The Task Force shall submit a final report by December 31, 2020.

MEMBERSHIP

A. Task Force Members

The task force is composed of members representing:

- the two largest caucuses of the Washington State Senate
- the two largest caucuses of the Washington State House of Representatives
- Washington State Office of The Governor
- Washington State Caseload Forecast Council (non-voting member)
- Washington State Department of Corrections
- Washington State Sentencing Guidelines Commission
- Statewide Family Council
- Statewide Reentry Council
- Superior Court Judges' Association
- Washington Association of Criminal Defense Attorneys or The Washington Defender Association
- Washington Association of Prosecuting Attorneys
- Washington Association of Sheriffs and Police Chiefs
- Washington State Association of Counties
- Washington State Minority and Justice Commission
- Labor Organization Representing Active Law Enforcement Officers in Washington State
- Two different community organizations representing the Interests of Incarcerated Persons
- Two different community organizations representing the Interests of Crime Victims

See Appendix 1 for current roster of members and their alternates.

B. Alternates

Appointed members of the Task Force may choose to designate an alternate and must communicate that choice to the facilitation team and the Co-Chairs. The member and alternate are responsible for (a) ensuring both are fully briefed on Task Force business and (b) delivering a consistent message to the Task Force. Unless otherwise stated, alternates speak and act on behalf of the member – which includes decision-making. Alternates are expected to adhere to the same rules and responsibilities as members. Alternates are encouraged to attend and observe meetings and stay current on Task Force deliberations.

C. Additional Perspectives

The Task Force will discuss whether there are key parties missing from its membership. The Task Force may recommend to the Co-Chairs to add ways for additional parties to join its deliberations.

D. Resignation

If a member is no longer willing or able to serve on the Task Force, he/she will notify the Co-Chairs and the Facilitation Team. The Task Force can make recommendations on how to fill the vacant seat, including inviting the organization or constituency represented to provide a replacement.

ROLES AND RESPONSIBILITIES

A. Members

Task Force members have the following responsibilities:

- a) No Surprises: Members agree to keep all fellow members apprised of relevant information for the duration of the Task Force. Relevant information may include but is not limited to:
 - i. Discussions and meetings with citizens, agencies, and elected officials.
 - ii. Changes in personnel or other circumstances that may affect the Task Force.
 - iii. Anticipated legislative proposals relevant to the work of the Task Force or that may impact an individual member's constituency.
- b) Represent Constituency: Members will bring the concerns and perspectives of their various constituencies to the Task Force, where appropriate, for discussion and possible consensus building. It is understood that many members participate in other initiatives at local, state, regional, and national levels and may advocate in those forums for solutions on issues related to the Task Force's work, but will make it clear they are representing only themselves, not the Task Force, unless the Task Force has taken an official position on the matter, in which case it should be presented verbatim.

Members will keep other key entities within their interest areas and constituencies informed on Task Force developments, solicit input on issues under consideration, and share this input with the Task Force if relevant—even if those opinions differ from the member's own personal views.

- c) Focus on the Overall Good of All the Interests Represented: While members are to represent the points of view of their interest area, members are also asked to focus on the overall good of all the interests represented on the Task Force, not just the perspectives of individual interest areas. Additionally, members are to be aware and make the Task Force aware of situations where the Task Force's advice could affect their own interest.
- d) Respectful of the Diversity of Views: To enhance the possibility of constructive discussions and dialogue as members educate themselves on the issues and engage in consensus building, members agree to be respectful of the diversity of views on the Task Force. Members agree to listen openly to all points of view

on issues and alternatives and seek to identify areas of agreement, as well as reasons for different points of view. Members agree to avoid personal attacks both at the table and away from the table.

- e) Prioritize Preparing for, Attending, and Actively Participating in Meetings: Members will arrive on time and avoid leaving early. Members will inform the Co-Chair and the Facilitation Team as far in advance as is possible if they (or their alternates) cannot attend a scheduled meeting. The Facilitation team will review and discuss the agenda with a member who has indicated in advance that they cannot attend a meeting.
- f) Work Cooperatively and Creatively to Seek Areas of Agreement: Members will work cooperatively with each other and the Facilitation Team to accomplish the purposes of the Task Force, and acknowledge that all participants bring legitimate purposes, goals, concerns, and interests—irrespective of whether they agree with them.
- g) Focus on the Subject at Hand: Members agree to focus on the topic of discussion, share discussion time, avoid interrupting, respect time constraints, keep reactions and responses from being personal, and avoid side conversations.
- h) Base Decisions and Recommendations on Evidence and Data: Task Force members commit to working in good faith together to identify, commission or collect, and carefully consider any relevant studies, analyses, and/or other data to underpin their decisions and recommendations.
- i) Abide by Discussion Ground Rules:

Be Respectful

- One person speaks at a time; listen when others are speaking, avoid interrupting and side conversations.
- Keep comments brief so everyone gets a chance to share their thoughts. Avoid dominating the discussion.
- Hear and respect all opinions.
- Silence cell phones and refrain from using laptops during the meeting, except to take notes.

Be Constructive

- Acknowledge that all participants bring with them legitimate purposes, goals, concerns and interests, whether or not you are in agreement with them.
- Openly explore issues.
- Act in “good faith,” seeking to resolve conflicts and identify solutions. Come with the sense that this is a gathering of bright minds working toward a common goal.
- State concerns and interests clearly, listen carefully to and assume the best in others. Leave negative assumptions and attitudes at the door.
- Share comments that are solution focused, rather than repeating past discussions.
- It is OK to disagree; it is not OK to make personal attacks or slanderous statements.
- Minimize the use of jargon and acronyms, define and explain when used.
- Work towards consensus. Be willing to compromise.
- Ask for clarification when uncertain of what another person is saying. Ask questions rather than make assumptions.

Be Productive

- Begin and end meetings on time.
- Respect time constraints.
- Adhere to the agenda as much as possible, focusing on the subject at hand.

- Indicate to the facilitator/s when they wish to make a comment and be acknowledged before speaking.
- Volunteer for the tasks at hand, as appropriate.

B. Facilitation Team

The William D. Ruckelshaus Center will provide staff support and facilitation services to the Task Force. The Center, in its role as an independent third party with expertise in collaborative processes, is responsible for the management and facilitation the Task Force. The responsibilities of the Center's Facilitation Team Include:

- a) Help keep the Task Force focused on agreed-upon tasks and to suggest process ideas, strategies, approaches, alternative methods, and procedures to support the work of the Task Force.
- b) Take steps as needed to protect the integrity of the collaborative process.
- c) Provide information as needed to ensure that the Task Force can remain accountable to its responsibilities under the budget proviso.
- d) Work with the Co-Chairs to keep discussions moving forward and encourage participation by all members.
- e) Document decisions and action items and enforce the Task Force's ground rules.
- f) Facilitate meetings of the Task Force and maintain a neutral stance in facilitating discussions to achieve the Task Force's purposes and goals.
- g) Communicate with members between meetings as needed to discuss issues, opportunities, concerns, strategies, and alternatives that need addressing to meet the Task Force's goals and purposes.
- h) Work with the Co-Chairs to prepare meeting agendas so meetings are productive and contribute to accomplishing the goals of the Task Force.
- i) Prepare meeting summaries and/or action item lists and distribute them to members.
- j) Review Task Force products.
- k) Assure that relevant information gets provided to the Task Force in a timely manner relative to the advice the Task Force is asked to provide.
- l) When deemed necessary by the Task Force, contract with one or more appropriate consultants to provide data analysis, research, and other services to the Task Force for the purposes in subsection (4) of the Task Force proviso.

C. Co-Chairs

The Task Force may designate two or more of its members as Co-Chairs. The Task Force will look for individuals who meet the following criteria:

- a) Good listener, sympathetic.
- b) Dependable and committed (attends every meeting).
- c) Able and willing to work with the facilitators to create the agenda for each Task Force meeting.
- d) Open-minded with no preconceived agenda or outcome to push.
- e) Able to speak for the whole.
- f) Committed to working for outcomes that meet the interests of all Task Force members.
- g) Consensus-builder.

Responsibilities of the Co-Chairs include:

- a) Co-Chairs will be responsible for leading meetings and may take on those responsibilities necessary to aid and assist the Task Force in reaching a decision. If the Co-Chairs have a position or interest in the topic of discussion and/or if the discussion is to result in a decision of the Task Force, the Facilitation Team will assume the role of Co-Chairs.

- b) Co-Chairs will communicate with members between meetings when needed to discuss issues, opportunities, concerns, strategies and alternatives that need addressing to meet the Task Force's goals and purposes. Co-Chairs will convey this information to the Facilitation Team.
- c) Co-Chairs will ensure that meeting business is conducted in a timely and efficient manner, and that all members have a chance to contribute.
- d) Co-Chairs will act as the Task Force's spokespersons. If a Task Force member is asked to respond to the media, an outside party, or other public communications, members shall respond within the spirit of working toward agreement. If an alternate spokesperson is needed, the Task Force can agree to designate a particular spokesperson for that specific issue. Public statements by the Co-Chairs or designated spokesperson should reflect the Task Force's recommendations and positions.

D. Work Groups

Because the timeline to complete its work is short, The Task Force may create work groups to carry out specific assignments between meetings, such as to discuss information and draft documents. The Co-Chairs will work with the Facilitation Team to seek volunteers; the Co-Chairs will appoint work group members and a Task Force member to chair any such created work groups.

CONSENSUS DECISION-MAKING

The Task Force's decisions and recommendations will be consensus-based. A consensus process will enable the Task Force to more freely discuss issues to arrive at a decision acceptable to all. In some instances, precise wording of a consensus decision may be developed by the Facilitation Team after review of the meeting notes of the discussion for approval by the Task Force at a subsequent meeting.

For all decisions, consensus of all Task Force members is desired. Consensus can be achieved at any full Task Force meeting where at least two-thirds (14 of 20) members (or their designated alternates) are present. Task Force members pledge to attend all meetings in person if possible; however, electronic or phone participation in meetings will be permitted if necessary.

The Task Force will have the option to ask the Facilitation Team to communicate afterward with members not present for a decision, to explain key points of Task Force deliberations and confirm whether those members can go along with the decision. If not, the co-chairs may decide whether the full Task Force should reconsider the decision at a subsequent meeting.

Consensus Defined

The Task Force operates under the following definition of consensus:

Consensus means that each Task Force member can say: (1) I was a respected member of the group that considered the decision; (2) my ideas (opinions, knowledge, concerns, beliefs, hopes) were listened to; (3) I listened to the ideas (opinions, knowledge, concerns, beliefs, hopes) of others; and (4) I can support the decision of the group, even though I might have made a different decision had I acted alone.

This consensus can be conveyed via a thumbs up (*I fully support this option*), thumbs sideways (*I can live with this option for the good of the group and the process*) or thumbs down (*I cannot live with this option*). If anyone is thumbs down, the group will seek solutions that allow those thumbs to move to up or sideways. If there are instances where consensus cannot be reached, the pros and cons of the different alternatives can be presented in a succinct manner in the Task Force's reports.

MEETINGS AND RECORDS**A. Meetings**

- a) Meetings are held at least monthly.
- b) Meetings will be open to the public. Agendas will not include time for public comment.
- c) Members' communications may be subject to disclosure pursuant to existing state law.
- d) Meetings will begin and end on time.
- e) Meetings will be task-oriented with an agenda and materials prepared and distributed in advance, to support informed discussion.
- f) Members will provide questions or issues for inclusion on the agenda to the Facilitation Team. The Facilitation Team and Co-Chairs will work to incorporate these items as appropriate.
- g) Time will also be set aside at the conclusion of each meeting for members to identify agenda items for the next meeting.

B. Meeting Summary

The Facilitation Team will take notes during Task Force meetings and provide meeting summaries. The Task Force will review and edit (as needed) a draft summary of each meeting before being considered final. The final summary will provide Task Force members and interested public with a concise and clear summary of the meeting, including synopses of presentations, discussions and decisions, and reference to related materials. It will not attempt to capture each statement or comment, such as would be found in a meeting transcript.

Criminal Sentencing Task Force - Members & Alternates - as of 11.6.2019

Title	First Name	Last Name	Affiliation	Task Force Role
	Jon	Tunheim	Washington Association of Prosecuting Attorneys	Co-Chair
	Lydia	Flora Barlow	Statewide Reentry Council	Co-Chair
Representative	Roger	Goodman	Washington State House of Representatives	Co-Chair
Representative	Brad	Klippert	Washington State House of Representatives	Member
Councilmember	Derek	Young	Washington State Association of Counties	Member
	DeVitta	Briscoe	Representing Interests of Crime Victims	Member
	Gregory	Link	Washington Association of Criminal Defense Attorneys; Washington Defender Association	Member
	Lew	Cox	Representing Interests of Crime Victims	Member
Senator	Manka	Dhingra	Washington State Senate	Member
Senator	Mike	Padden	Washington State Senate	Member
	Nick	Allen	Representing Interests of Incarcerated Persons	Member
Chief	James	Schrimpsheer	Labor Organization Representing Active Law Enforcement Officers in Washington State	Member
Judge	Roger	Rogoff	Superior Court Judges' Association	Member
Chief	Rafael	Padilla	Washington Association of Sheriffs and Police Chiefs	Member
	Russ	Hauge	Washington State Sentencing Guidelines Commission	Member
Secretary	Stephen	Sinclair	Washington State Department of Corrections	Member
	Sonja	Hallum	Washington State Office of the Governor	Member
	Suzanne	Cook	Statewide Family Council	Member
	Tarra	Simmons	Representing Interests of Incarcerated Persons	Member
Judge	Veronica	Alicea-Galvan	Washington State Minority and Justice Commission	Member

	Elaine	Deschamps	Washington State Caseload Forecast Council	Non-voting Member
	Byron	Coates	Statewide Family Council	Alternate (for Suzanne Cook)
	Kim	Gordon		Alternate (for Gregory Link)
	Mac	Pevey	Department of Corrections	Alternate (for Sec. Stephen Sinclair)
Judge	Judith	Ramseyer	Superior Court Judges' Association	Alternate (for Judge Roger Rogoff)
	Melody	Smile	Statewide Family Council	Alternate (for Suzanne Cook)
	Clela	Steelhammer	Washington State Caseload Forecast Council	Alternate (for Elaine Deschamps)
	Nick	Straley		Alternate (for Nick Allen)
Judge	Helen	Whiten		Alternate (for Veronica Alicea-Galvan)

Appendix D. Guiding Principles

Draft Guiding Principles – Criminal Sentencing Task Force

Washington State Criminal Sentencing Task Force

Guiding Principles for Recommendations

- Based on evidence & data
- Recognizes and plans for costs and fiscal impacts at all levels
- Considers impacts across the whole sentencing system
- Promotes and improves public safety
- Considers past/present disparities and promotes equitable outcomes for all communities
- Considers and contributes to healthy communities
- Improves the effectiveness of the system
- Reduces complexities and errors in the system
- Supports accountability and successful reintegration into the community
- Allows for flexibility – not “one size fits all”