

- c. **Promotes/improves public safety:** Allows opportunity to reduce the destabilizing impact of long-term incarceration on communities and encourages rehabilitation.
- **C:** This recommendation makes sense and would align with the way other enhancements work. For example, the sexual motivation enhancement cannot be applied to a sex crime.
- **Q:** Does this mean that an individual implying they have a weapon and an individual actually brandishing a weapon would be treated the same? **R:** That’s an interesting question. Robbery 1 is committed when an individual uses or displays what looks like a deadly weapon.
- **C:** Perhaps we should create a separate offense of Robbery 1. **R:** Could you not just add additional language to clarify: the enhancement does not apply when a weapon is a statutory element of the underlying crime? For example, the Legislature could modify [9.94A.533\(3\)\(f\)](#) and 4(f) to read:
 - “[The firearm/deadly weapon] enhancements in this section shall apply to all felony crimes except the following:
 - Possession of a machine gun or bump-fire stock, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;
 - Any other offense for which possession and/or use of a firearm/deadly weapon is an element of the underlying crime.”

Action Item: SEWG members agreed to bring this recommendation to the full Task Force on 9/10.

POTENTIAL RECOMMENDATION #14

Eliminate the protected zone enhancement (RCW [69.50.435](#)).

- a. **Reduces complexities and errors:**
- b. **Improves effectiveness of the sentencing system:** Protected zones were established as part of the War on Drugs to guard against the sale/distribution of illegal substances to minors. However, several studies have shown that such laws fail to protect youth and contribute to racially disparate sentencing outcomes (Greene, Pranis, & Ziedenberg, 2006).
- c. **Promotes/improves public safety:** The number and geographic size of protected zones often leads to overlap and can result in entire cities being subject to enhanced sentences. The proliferation of enhancement zones undermines their intended deterrent effect as individuals are no longer incentivized to move criminal activity elsewhere when entire cities are effectively deemed protected zones (Prison Policy Institute; Kajstura, 2014).
- **C:** This recommendation makes sense. The law intended to deter the sale of drugs to minors, but the law does not require schools to be in session and it does not require children to be present. Furthermore, other crime statutes already explicitly address dealing drugs to children.
- **C:** I agree but would note that some prosecutors in more rural counties have traditionally favored protected zone enhancements.
- **C:** There is nearly 20 years of research showing that 70% of the time the offense subject to this enhancement occurs when school is not in session. The research also shows that these types of laws have a hugely disproportionate impact on people of color. Furthermore, the vast majority of crimes these laws are applied to do not involve the sale of drugs to children.
- **C:** If the Task Force does recommend removing this enhancement it should also look at strengthening or creating offenses that deal with the sale of drugs to children.
- **C:** I will have a hard time supporting this recommendation. School grounds really are sacred and ought to be protected.

Action Item: SEWG members agreed to bring this recommendation to the full Task Force.

POTENTIAL RECOMMENDATION #15

Remove juvenile adjudications from calculation of adult offender score and make reforms retroactive.

- a. **Reduces complexities and errors:** Calculation of offender score can be complicated and removing consideration of juvenile crimes will simplify system and treat juvenile adjudications differently than adult convictions. See RCW 9.94A.525. Also, including juvenile crimes in offender scores increases likelihood of inappropriate sentences for actions taken as a juvenile when person has less culpability.
- b. **Improves effectiveness of the sentencing system:** Youth reduces a person's culpability for crimes because of cognitive and emotional development continues into a person's 20s. The law recognizes this reality in many ways, but nonetheless treats a juvenile adjudication the same as an adult conviction when determining a person's offender score. The current system does not appropriately balance juvenile adjudications and such adjudications should not be used to determine the offender score of someone later in life. Removing consideration of these adjudications will more appropriately recognize the lack of culpability that children have early in their lives.
- c. **Promotes/improves public safety:** Allows opportunity to reduce the destabilizing impact of long-term incarceration on communities and encourages rehabilitation.

A Working Group member noted that this recommendation came from constituents. The recommendation acknowledges that juvenile adjudications occur with the understanding that kids are far less culpable than adults and juvenile convictions should not strongly impact adult sentences.

Additional questions, comments, and responses are summarized below:

- **C:** The Subgroup plans to review criminal history score calculations, this recommendation could benefit from additional input/consideration by the Subgroup.
- A legislative member noted that a bill to address this almost passed the Legislature in 2020 and the topic is likely to come up again in the 2021 session.
- **C:** Prior to 1986, a juvenile offense after age 15 could only be included in an individual's criminal history score until the age of 25. This seems like an enlightened approach, and if we could get back to it that would be an improvement.
- **C:** The Statistical Analysis Center (SAC) at the Office of Financial Management (OFM) is currently researching the efficacy of WA's criminal history score calculation system.

Action Item: The Working Group agreed to bring this recommendation to the full Task Force to discuss whether it should be pursued in 2020 or made part of the grid Subgroup's ongoing work.

NEXT STEPS & ACTION ITEMS

- **SEWG members** will present revised recommendations and additional context to the full Task Force on September 10th.
- **Martina Kartman** will follow-up with DOC to clarify what policies and/or statutes potential recommendation #8 would address.