

**Washington State Criminal Sentencing Task Force**  
**Sentencing Effectiveness Working Group – Grid Subgroup**  
**Meeting Summary: May 26, 2020**  
Digital Conferencing Technology

**Attendees:**

- Rep. Roger Goodman, *Washington State House of Representatives, Democratic Caucus*
- Russ Hauge, *Sentencing Guidelines Commission*
- Keri-Anne Jetzer (alt. for Russ Hauge), *Sentencing Guidelines Commission*
- Lauren Knoth (research/data support), *Washington Institute for Public Policy*
- Greg Link *Washington Association of Criminal Defense Attorneys; Washington Defender Association*
- Judge Roger Rogoff, *Superior Court Judges Association*
- Clela Steelhammer (research/data support), *Caseload Forecast Council*
- Jon Tunheim, *Washington Association of Prosecuting Attorneys*

**Guests:**

- Omeara Harrington
- Kelly Leonard
- Sydney Oliver

**Facilitation Team:** Amanda Murphy, Chris Page, and Hannah Kennedy

**WELCOME & AGENDA REVIEW**

Amanda welcomed Grid Subgroup (Subgroup) members and reminded the group that before discussing considerations and approaches for the Grid, they should prepare for presenting their “first offer” of findings and suggested directions to the full Task Force on June 4, 2020. Chris encouraged people to listen at that full Task Force meeting for any non-grid-specific sentencing effectiveness ideas from Task Force members, to inform the full Sentencing Effectiveness Working Group (SEWG or Working Group).

**JUNE 4<sup>TH</sup> TASK FORCE MEETING**

**Clela & Lauren Presentations**

- Clela will provide a high-level overview of the Sentencing Reform Act at the June 4<sup>th</sup> meeting.
- Representative Goodman and Jon Tunheim will summarize the Grid Sub-Group’s progress to date.
- Lauren will walk the Task Force through t Decision Tree questions, grid options, and draft research proposal.

**Office Hours**

The Facilitation Team suggested Subgroup and Working Group members establish “office hours,” informal info sessions where Task Force members can pose questions to various fellow members with specific subject matter expertise. Subgroup members reacted favorably to this idea.

**DECISION TREE REVISITED**

After confirming their approach for the June 4<sup>th</sup> Task Force meeting, the Subgroup resumed discussing potential grid simplifications and improvements. Lauren summarized progress to date, noting general agreement to expand sentencing ranges. While some support lowering minimum sentencing ranges by more than maximum ranges would increase, others said it would be more politically feasible to expand cell ranges equally—and didn’t

think it would change actual sentences too much. The following sections summarize the Subgroup’s conversation, grouped by subject area.

### **Judicial Discretion**

- **Q:** Has the Subgroup discussed whether the new grid proposal(s) would be mandatory? **R:** The group has not yet discussed this possibility, though some members questioned whether it would be politically feasible to recommend moving from a mandatory to advisory sentencing structure.
- Lauren asked the Subgroup if it would help to have Matt Landon from the Office of Financial Management’s (OFM’s) Statistical Analysis Center to describe the scope of their risk-assessment research.
  - **Q:** Can you provide background on where this research came from? **R:** According to a recent report by the Counsel of State Governments, Washington’s criminal history score doesn’t track as many other states do. The state’s Statistical Analysis Center, located within OFM and partly funded by the Governor’s office, received a federal grant to investigate this.
  - **Q:** Does the Subgroup want Matt to join to discuss research on prior record score? **R:** Yes.
- The Subgroup agreed to have a longer conversation on judicial discretion that includes a specific discussion of aggravating versus mitigating factors.

### **Discussion on the Lower Left (Southwest) Grid Corner**

Lauren asked whether folks generally support the expansion of cell ranges equally or not—not only in terms of minimum and maximum sentences, but in terms of whether cells in different areas (aka zones or classes) of the grid should allow the same amount of judicial discretion.

- A member suggested that the “southwest” (lower left, aka SW) corner cells should provide lots of discretion for judges sentencing people going to county jail (0-12 months).
- Others cautioned against the potential impact on counties, emphasizing that we need to account for how any grid changes might change the number of incarcerated individuals committed to state prisons vs. local (county) jails. The Subgroup and full SEWG needs to be careful about how they present this work since local officials will be very concerned about managing costs if it appears grid changes will shift prisoners from state to local facilities. The Subgroup agreed that a clear analysis of fiscal impact on counties would be needed. Another member suggested “justice reinvestment” could help support counties and ensure jail populations do not grow without compensation.
- A member noted that most of the folks incarcerated based on cell ranges in the SW have credit for time served, so will have served most of their sentence prior to conviction.
- Another participant added that the greatest number of cases is in the SW corner, and for those that receive an incarceration sentence in the SW corner, the average length is 3.3-3.9 months (jail, Drug Offender Sentencing Alternative, or prison).

### **Expanding Cell Ranges**

Lauren showed the Subgroup a graphic with sentencing ranges around the state in months for the SW corner, noting a clear lack of consistency in the amount of judicial discretion. Therefore, expanding sentencing ranges by percentage across the grid will only exacerbate this.

- **Comment (C):** The Subgroup needs to discuss how we count criminal history.
- **C.** A member suggested having separate cells for 0 and 1 scores and collapsed ranges for other scores, and wondered about including a repeat felony or repeat violent felony column as is the case in PA.

- **C.** The Working Group and Subgroup will need to address multipliers and/or washouts first, since decisions about these will impact how the grid and cell changes affect the system overall.

***Other Comments & Questions***

- **C:** The changes in actual time served may not seem like a big deal, but the perception of any grid changes will matter immensely.
- **Q:** Did any of these issues come up in Pennsylvania (PA)? **Lauren:** no, they have different court systems; inherent structural difference between states make comparison difficult.

**NEXT STEPS & ACTION ITEMS:**

- **The Facilitation Team** will contact Matt Landon at OFM about joining a future (hopefully 6/2) Subgroup meeting to discuss his current risk assessment research.