

# The Washington State Criminal Sentencing Task Force

## Operating Procedures ~~---~~ DRAFT 3.18.21

### 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.

During consensus deliberations and decisions, the member for each seat shall have the role of representing the seat. If the member cannot participate, or the member has asked the alternate to represent the seat in consensus decisions for other reasons, the member shall notify the facilitation team and the facilitation team shall inform the full Task Force. During non-consensus conversations, in the regular flow of meeting dialog, alternates are permitted to participate.

## 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. If a member (and their alternate, for seats with alternates) misses two consecutive meetings without notice, the facilitation team will contact that member to inquire about their continued participation. After three consecutive missed meetings, the Task Force may request the co-chairs request in writing to the President of the Senate and the Speaker of the House to appoint a replacement member for that seat.
- 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.
- h|i) Task Force email communications shall be limited to Task Force meeting business, topics, and issues relevant to Task Force discussions. Emails to Task Force will come from the facilitation team and co-chairs and will determine whether specific email(s) from non-members serve the interests of the Task Force.
- h|j) 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 for 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 a member anyone is thumbs down, that member is expected to provide a proposal that legitimately attempts to achieve the interest of the constituency they represent and the interests of the other members. All members the group will seek solutions that allow those thumbs to move to up or sideways.

When seeking consensus, the Task Force will consider a range of definitions of support and will communicate this information in its 2021 report:

**Unanimous support:** full agreement with all aspects of the decision/recommendation – all members present were thumbs up.

**Strong support:** support for all or most aspects of the decision/recommendation and no fundamental disagreements with any aspect of the proposal – no more than two members present are thumbs sideways.

**General support:** support for most aspects of the decision/recommendation and no fundamental disagreements, however there may be unanswered questions, aspects in need of information not available, etc. There is a mix of thumbs up and thumbs sideways.

**Weak support:** Significant disagreement with one or more aspects of the decision/recommendation, however, all members present can live with the proposal (i.e. overall, the decision/recommendation is better than leaving things as they are now or doing nothing) – the majority of members present are thumbs sideways.

**Fundamental disagreement and no consensus:** Significant disagreement with the decision/recommendation. One or more members cannot support or live with the proposal. Member(s) have suggested alternatives that legitimately attempts to achieve the interest of the constituency they are representing, and the interests of the other members, however, after dialogue and deliberation, there is still no consensus – One or more thumbs down.

**Abstention:** At times, a decision/recommendation may be infeasible for a member to weigh in on.

The goal is for all members to be in unanimous, strong, or general support.

In the situation of weak support, members may submit in writing to the facilitation team and the co-chairs for inclusion in the 2021 report, the reasoning behind their constituency being able to “live with” the decision and alternative options or language that would have addressed their constituencies concerns.

In situations when there is no consensus, members not in support will submit in writing to the facilitation team and the co-chairs the reasoning behind their constituency being unable to “live with” the decision and alternative options or language that would have addressed their constituencies’ concerns.

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.