

**Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup**

DRAFT Meeting Summary: March 8, 2021

Zoom Digital Conferencing Technology

Attendees:

- Russ Brown, *Washington Association of Prosecuting Attorneys*
- Chief Gregory Cobb, *Washington State Association of Sheriffs and Police Chiefs*
- Representative Roger Goodman, *Washington State House of Representatives Democratic Caucus*
- Keri-Anne Jetzer (alt. for Judge Wesley Saint Clair), *Sentencing Guidelines Commission*
- Greg Link, *WA Association of Criminal Defense Attorneys; WA Defender Association*
- Judge Wesley Saint Clair, *Sentencing Guidelines Commission*
- Melody Simle (alt. for Suzanne Cook), *Statewide Family Council*
- Clela Steelhammer (research & data support), *Caseload Forecast Council*
- Nick Straley (alt. for Nick Allen), *Interests of Incarcerated Persons*
- Jon Tunheim, *Washington Association of Prosecuting Attorneys*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*

Guest: David Trieweler

Facilitation Team: Amanda Murphy, Chris Page, Molly Stenovec, Maggie Counihan, and Hannah Kennedy

WELCOME & AGENDA REVIEW

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda.

STATE V. BLAKE PROPOSED RECOMMENDATIONS DRAFT MEMO

Nick Straley summarized the draft memo with proposed recommendations he volunteered to craft in response to the Subgroup's discussion of *State v. Blake* during last week's meeting. The proposed recommendations for the Task Force to consider:

1. That it should task the Sentencing Guidelines Commission with reviewing the implications of the *Blake* decision as part of a broader analysis of Washington's drug laws and report back to the legislature before the next session.
2. The legislature should also task and fund WSIPP or another appropriate research body with researching the impacts of the *Blake* decision. (See Supporting Materials section for additional detail on what such a research agenda should include).
3. The Legislature should not take action on addressing RCW 69.50.4013(1) this session and should wait for the research to be done and the SGC to provide recommendations.

Nick noted these align with recommendations the Task Force reached consensus on last year, specifically #4, #5, and #8. He also noted that these proposed recommendations, if adopted and followed, would examine the geographic and racial disparities in Washington's drug law sentencing.

Subgroup members continued their discussion of the impacts of the *Blake* decision. Jon Tunheim noted that most prosecutors are dismissing all local possession charges (i.e., for individuals currently in jails) and that the Department of Corrections (DOC) is in the process of producing a list of individuals currently confined just on possession charges so these charges can be dismissed. The Subgroup also

discussed DOC's efforts to produce a list of currently incarcerated individuals whose prior possession convictions were used in their criminal history score calculations. One member also noted the need to reconcile the legal financial obligations (LFOs) previously imposed on individuals for possession convictions—LFOs that are now unconstitutional.

The Subgroup also discussed the *Blake* decision's impact on court-ordered treatment. For example, if possession sentences are vacated for individuals serving time in inpatient treatment beds at DOC, the state can no longer legally pay for their treatment. Several Subgroup members noted concern about this, asking how we ensure sufficient resources are available to the voluntary treatment system and to individuals wanting to continue their treatment programs.

Representative Goodman provided an update on Legislative discussions of the *Blake* decision. He noted conversations thus far have focused on the need for massive investment in behavioral health, how and if the criminal statute should be amended to reinstate some form of possession crime, and how this law may impact juveniles. Representative Goodman also noted the Legislatures' renewed interest in establishing a justice reinvestment account.

Directing the conversation back to the draft memo and potential recommendations, the Facilitation Team asked Subgroup members if they wanted to present these to the full Task Force for their consideration, if any views/opinions were missing in their consideration of the *Blake* decision, and if any additions/revisions should be made to the draft potential recommendations.

Speaking from his experience as a law enforcement officer, Chief Cobb cautioned that before we legalize narcotics, we need to ensure the infrastructure for meaningful treatment is in place. The Chief noted his biggest concern is that for some folks suffering from substance abuse disorders, the only meaningful intervention is law enforcement, so until funding is available to support alternative treatment options, we should not eliminate law enforcement's ability to intervene. Although some members disagreed about the extent to which the judicial system has led to meaningful recovery for individuals suffering from addiction, all members agreed that Chief Cobb's call for explicit funding and support for alternative treatment and intervention approaches should be included in the memo.

Action Item: Nick Straley agreed to revise the draft memo to include an explicit call for funding of behavior health and substance abuse treatment resources.

NEXT STEPS & ACTION ITEMS

- **The Facilitation Team** will circulate demographic and geographic data provided by the Microsoft Criminal Justice Equity Tool Team (via Kim Gordon) on Washington state possession convictions.
- **Nick Straley** will revise the draft potential Task Force recommendations regarding *State v. Blake* for the Subgroup to review and refine before distributing to the Task Force in advance of its 3/18/21 meeting.