

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: May 18, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown (alt. for Jon Tunheim), *Washington State Association of Prosecuting Attorneys*
- Representative Roger Goodman, *Washington State House Democratic Caucus*
- Keri-Anne Jetzer (alt. for Judge Saint Clair), *Sentencing Guidelines Commission*
- 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 State Association of Prosecuting Attorneys*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*

Guest: David Trieweler

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

WELCOME & AGENDA REVIEW

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda. She reviewed the latest draft Grid workplan for the Subgroup and Task Force and reminded members they would present their thinking to date to the full Task Force on Thursday, May 20th.

DRAFT DECISION GUIDE #1: VERTICAL AXIS

Amanda walked the Subgroup through a draft decision guide laying out key information, considerations, and emerging potential recommendations related to the grid vertical axis. Prepared by the Facilitation Team, the document aims to capture key findings from the grid research report as well as takeaways from the Subgroup's prior conversations on the vertical axis.

Members expressed concern about the amount of work and decisions to be made for the Task Force to reach consensus on a new grid proposal by December 2021. Hopefully, Subgroup and Task Force members can rely on their collective memory of past conversations to prioritize topic areas where they have had fewer prior conversations.

MOCK HYBRID FELONY CLASS AND OFFENSE SERIOUSNESS LEVEL GRID

In previous conversations, several Subgroup members discussed tying felony class to offense seriousness level. Specifically, members suggested a revised grid where class C felonies occupy the first 5 seriousness levels, Class B the next 5 seriousness levels, and Class A the following 5 seriousness levels. Using the current grid cell ranges, the Facilitation Team developed a mock grid, to visualize what this might look like.

Some members expressed concern that such a hybrid grid could increase presumptive sentence lengths for some crimes, particularly class B and class A felonies currently sentenced at lower offense seriousness levels. A member suggested addressing this concern by recommending offense seriousness level caps for class C and class B felonies that correspond with their statutory maximums, but still allowing class A and B felonies to occupy lower offense seriousness levels.

The Subgroup struggled to agree on a path forward for the vertical axis; instead, they saw discussion of cell ranges and zones as more important and consequential. The Subgroup agreed to propose the Task Force tentatively retain an offense seriousness level-based grid and begin discussing cell ranges, zones, and to a certain extent criminal history score. By reordering their grid topic sequencing, the Subgroup and Task Force could focus on building a new grid from the inside out rather than from the outside in.

Action Item: The Subgroup agreed to summarize their discussions thus far and present a path forward to the Task Force at its May 20th meeting.

NEXT STEPS & ACTION ITEMS

- **The Subgroup** will present to the full Task Force on May 20th and begin discussing cell ranges and zones on May 25th.

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: May 25, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown (alt. for Jon Tunheim), *Washington State Association of Prosecuting Attorneys*
- Representative Roger Goodman, *Washington State House Democratic Caucus*
- Keri-Anne Jetzer (alt. for Judge Saint Clair), *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 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 State Association of Prosecuting Attorneys*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*

Guest: David Trieweiler

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

WELCOME & AGENDA REVIEW

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda. She reminded members they will provide updates on their discussions, progress, findings, and suggested/potential recommendations at all future Task Force meetings.

SENTENCING GRID CELL RANGES & ZONES

Last week, the Subgroup agreed to adjust the order in which they consider the various grid topics. Members tentatively decided to work with the current offense seriousness level grid as they discuss cell ranges and zones, instead of moving forward with a felony-class-based grid.

Some members expressed interest in increasing judicial discretion by expanding cell ranges and/or collapsing/combining cells along the horizontal axis (e.g., combining criminal history scores 1-3, etc.). Others quickly note they did not support any increases in presumptive sentence lengths. At least one member reminded the Subgroup that recent grid research by the Washington Institute for Public Policy (WSIPP) indicates that as discretion increases so too does disproportionality; if the Subgroup and Task Force consider increasing discretion, they should also find ways to safeguard against increasing disproportionality.

ADDRESSING OFFENSES WHEN THE PRESUMPTIVE RANGE EXCEEDS THE STATUTORY MAXIMUM

A, B, and C class felonies are distributed across offense seriousness levels in the current grid. As a result, many B and C class felonies (which have a statutory maximum sentence of 10 and 5 years, respectively) are situated in cells with sentence ranges that exceed those maximum sentences. This

means that currently, such B and C class felonies will always result in sentences on the lower end of the cell range to avoid exceeding their statutory maximum.

To address this complexity and inconsistency, the Subgroup discussed a potential recommendation of a business rule where Class offense seriousness levels 1-5 could hold felony class, A, B, or C offenses, offense seriousness levels 6-10 could only hold felony class A and B offenses, and offense seriousness levels 11-15 could only hold class-A offenses. Members also discussed modifying the cell ranges to avoid instances where the presumptive range exceeds some offenses' statutory maximum.

NEXT STEPS & ACTION ITEMS

- **The Subgroup** will continue their discussion of cell ranges and zones on June 1st.

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: June 1, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown (alt. for Jon Tunheim), *Washington Association of Prosecuting Attorneys*
- Representative Roger Goodman, *Washington State House Democratic Caucus*
- Keri-Anne Jetzer (alt. for Judge Saint Clair), *Sentencing Guidelines Commission*
- Lauren Knoth (research & data support), *Washington Institute for Public Policy*
- Greg Link, *Washington Association of Criminal Defense Attorneys; Washington Defender Association*
- 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*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*

Guest: David Trieweiler & Sydney Oliver

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

WELCOME & AGENDA REVIEW

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

THREE STEP APPROACH TO ADDRESSING CELL RANGES, SENTENCE LENGTHS, & ZONES

After last week's Subgroup meeting the Facilitation Team met with Lauren to discuss potential ways to structure Subgroup discussions of cell ranges, sentencing lengths, and zones. Based on previous Subgroup conversations, it seems unlikely a universal approach (e.g., expand all cell ranges by 20% on both the minimum and maximum ends) will meet the needs of all Task Force constituencies. Instead, Lauren suggested the Subgroup could explore a three-pronged approach to develop recommendations on:

1. What to do with the southwest corner of the grid;
2. How to adapt the grid to ensure sentences within offense seriousness levels do not exceed statutory maximums; and
3. Adjust ranges systematically (e.g., by X%), particularly in the high offense seriousness levels, to reduce excessive incarceration lengths.

Subgroup members discussed this approach and other conversations related to criminal history score that may need to be included. Overall members supported this approach and agreed to begin discussing ways to modify the southwest corner of the grid. The following potential recommendations that emerged:

- Minimum sentences for cells in the southwest corner should be zero.
- If the number of presumptive jail sentences increases, the Legislature should ensure cost savings from reductions in Department of Corrections (DOC) populations and supervision

charges are provided to local jurisdictions to account for increased supervision and/or sentencing alternatives responsibilities.

- The Legislature should consider the potential need for review and oversight of local jail conditions, particularly if recommended changes to the sentencing grid are likely to increase the annual number of jail sentences.

NEXT STEPS & ACTION ITEMS

- **The Subgroup** will update the Task Force on this conversations and progress to-date at the June 3rd meeting.
- **The Subgroup** will continue to discuss cell ranges, sentence lengths, and zones next week.