

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: March 22, 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*
- Lauren Knoth (research & data support), *Washington Institute for Public Policy*
- 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*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*

Guest: David Triewailer

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

WELCOME & AGENDA REVIEW

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda. The Subgroup discussed the March 18th Task Force meeting. Consensus recommendations from that meeting went in a letter from the non-legislative co-chairs to the Legislature (Task Force members and alternates will receive a copy of the letter).

SENTENCING ALTERNATIVES DRAFT DATA & FINDINGS

Lauren Knoth (Washington State Institute for Public Policy, aka WSIPP) walked the Subgroup through the draft tables and findings on sentencing alternatives (fiscal year 2019) a draft WSIPP report. Lauren's analysis examines how the various alternatives to total confinement fall across the grid, highlighting gaps, and how the use of such alternatives differs by demographics (i.e., race, ethnicity, and gender).

Lauren noted that individuals may be included more than once in this data if they had multiple, separate sentencing dates in FY 2019. For individuals charged with multiple offenses at the same time, the longest sentence length or the greatest seriousness level was selected. The data includes Latinx individuals within each racial category, with a majority of Latinx individuals included in the "white" category (Hispanic/not Hispanic is not consistently offered as a racial category across datasets but is included in *some* datasets as an additional ethnicity category).

Action Item: Lauren will revise the sentencing alternative tables to display "Hispanic" as a separate race category.

Lauren and Subgroup members noted the following key findings:

- Sentencing alternatives are rarely used for individuals convicted of offenses with a seriousness-level between 6-9.
- Sentencing alternatives are not available for crimes with the highest offense seriousness level scores (level 13-16).
- The application of sentencing alternatives is a discretionary act, not mandated; thus, we tend to see more disparity because the discretion provides greater opportunity for it.
- The data appears to show greater disparity in the use of sentencing alternatives between Black and white women (compared to the disparity observed among males of different races).
- In general, sentencing alternatives operate as a mitigating force, reducing the length of total confinement time. However, it is important to note that the First Time Offender Waiver can result in a sentence above the standard range as it includes a period of mandatory community custody. Several Subgroup members anecdotally described courts using the First Time Offender Waiver to ensure supervision for individuals who otherwise would not receive supervision.

The Subgroup's discussion of the data led to several important questions:

- Is there any research that speaks to whether sentencing alternatives would be appropriate/effective in addressing serious violent offenses? If so, perhaps we need to rethink how we classify offenses.
- What eligibility requirements exist for each type of sentencing alternative?
- When were they drafted? Do they draw upon modern brain science? Are these restrictions appropriate?
- When reviewing the grid research, what things can the Task Force make decisions on now and what decisions will require additional time, resources, and information?

Action Item: Clela Steelhammer (Caseload Forecast Council) will provide a summary of sentencing alternatives and their eligibility requirements.

NEXT STEPS & ACTION ITEMS

- **Lauren Knoth** will incorporate Subgroup feedback and revise the sentencing alternative data tables.
- **Clela Steelhammer** will draft a summary of current sentencing alternatives and associated eligibility requirements.