

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: April 12, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown, *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, *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*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*

Guest: David Triewiler

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. The Facilitation Team reminded members this would be their last meeting to review the draft sentencing grid research report; Washington State Institute for Public Policy (WSIPP) will finalize the report no later than Tuesday (4/20) and Lauren Knoth (WSIPP) will present the report's findings to the full Task Force on May 6th.

DRAFT SENTENCING GRID DATA & FINDINGS

Lauren continued her presentation of the draft research report. She walked the Subgroup through the distribution of fiscal year 2019 standard sentences (i.e., excluding exceptional sentences) on the current grid and the projected distribution of standard sentences on the simulated felony class-based grid.

Beginning with the current grid, the Subgroup reviewed FY2019 standard sentences by race. Across the grid, Black, Indigenous, and People of Color (BIPOC) individuals received two months longer on average than their white peers. This racial disproportionality was greatest for individuals with smaller criminal history scores (e.g., 0 or 1). Lauren noted that this is consistent with the literature, finding stereotypes are more impactful when less information (i.e., criminal history) is available. Subgroup members noted that this would lead to accumulated bias in the system, with BIPOC individuals more likely to have higher criminal history scores due to the above disparate treatment.

Other key findings that emerged from the Subgroup's discussion of FY2019 standard sentences on the current grid include:

- Data on average sentence lengths could prove helpful in addressing the question of whether it would make sense to collapse or combine some cells horizontally.

- Racial disproportionality may be greater when considering exceptional sentences if white individuals are more likely to receive sentencing alternatives that reduce their total confinement time.

The Subgroup then discussed the draft findings from research on the simulated felony class-based grid. Lauren used the felony class-based grid developed by the Sentencing Guidelines Commission (SGC) as the basis for this simulation. She noted that the simulated grid assumes that judges would anchor sentences on a felony class-based grid in a similar pattern as the current grid (i.e., if a judge tends to sentence at the low end of the standard range for a particular crime on the current grid, they are likely to sentence at the low end of the standard range for the same crime on the new felony class-based grid). Most sentences in the simulated grid fall in the C- felony class.

Given that the felony class-based grid contains more cells (than the current grid) with a minimum sentence of 0 months incarceration, assuming those judges that currently sentence at the minimum of the range will *continue* to sentence at the minimum (if it becomes zero) may overestimate the effects of such a felony class-based grid on overall sentencing.

The simulation predicts a 21% reduction in incarceration, though if judges were unwilling to sentence more individuals to 0 months of confinement, some of this reduction may increase the local jail population as more individuals receive sentences of less than 12 months. Lauren also noted that racial disproportionality appears to decrease slightly under the simulated grid.

NEXT STEPS & ACTION ITEMS

- **Subgroup members** will provide any additional feedback to Lauren before Tuesday (4/20).