

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: May 4, 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*
- 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 Triewelier

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. She reminded members that over the next several weeks they will be developing decision guides for the full Task Force, building on the grid research report to come up with key findings, considerations, and tradeoffs on important topics the Task Force will address in coming up with recommendations for a new grid.

REVIEW DESIRED OUTCOMES FOR THE GRID

Amanda reminded the Subgroup of the Task Force's desired outcomes related to the sentencing grid. These outcomes were approved by the full Task Force last year and will help guide the Subgroup's discussions and developments of decision guides. A member suggested revisiting these outcomes with the full Task Force to possibly edit or expand them.

GRID VERTICAL AXIS: OFFENSE SERIOUSNESS LEVEL OR FELONY CLASS?

The Subgroup discussed the key findings and pros/cons of a grid based on offense seriousness level versus a grid based on felony class. Based on the simulated grid research, a felony class-based grid could reduce overall incarceration but may also increase local jail populations. The felony class-based grid could also lead to an increase in some offense ranges as it would require a reordering of some offenses.

Some members questioned the benefit of changing to a class-based system, noting that adjustments to the current grid could achieve the same desired outcomes while limiting unintended

consequences and cost. One member worried that a reduction in grid rows from 16 offense seriousness levels to 9 +/- felony classes could limit nuance among sentences and further limit discretion. The Sentencing Guidelines Commission (SGC), when discussing a felony class-based grid, expressed concern that court costs could increase if legal precedents and case law were challenged. Members noted this would only be an issue if sentences were increased; otherwise not much case law depends on offense seriousness level.

Others noted that portions of the current grid, based on offense seriousness level, are irrelevant because several ranges exceed the statutory max for certain crimes (e.g., Class C and B felonies) at certain offense seriousness levels. At least one member felt the current mixture of A, B, and C felonies across offense seriousness levels is illogical and dilutes the notion of culpability and seriousness of an offense. They also felt the current sprinkling of A, B, and C felonies across offense seriousness level reflects the Legislature's reactive and piecemeal approach to criminal legal policy.

Multiple Subgroup members suggested tying felony class to offense seriousness level. For example, Class C felonies would occupy the first five seriousness levels, Class B felonies would make up the next five seriousness levels, and Class A offense would be placed in offense seriousness levels 11-16.

NEXT STEPS & ACTION ITEMS

- **The Subgroup** will continue its discussion of felony class vs. offense seriousness level next week.
- **The Facilitation Team** will begin developing a draft decision guide based on the Subgroup's vertical axis conversation to-date.