

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: June 22, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown (alt. for Jon Tunheim), *Washington Association of Prosecuting Attorneys*
- Rep. 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 Ass'n of Criminal Defense Attorneys; WA Defender Association*
- Judge Wesley Saint Clair, *Sentencing Guidelines Commission*
- Melody Simle (alt. for Suzanne Cook), *Families of Incarcerated Persons*
- 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*

Guests: Joanne Smieja and David Trieweller

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

WELCOME & AGENDA REVIEW

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda. Given the number of topics the Subgroup needs to tackle, she asked members to focus on developing some preliminary potential recommendations to address the southwest corner of the sentencing grid.

THE SOUTHWEST CORNER OF THE GRID

Most sentences take place in the lower left (southwest) corner of Washington's sentencing grid, i.e., most cases involve low offense seriousness level (OSL) offenses and individuals with relatively low criminal history scores (CHSs). Recent research conducted by the Washington State Institute for Public Policy (WSIPP) found that increasing the number of cells in the southwest corner with a presumptive minimum sentence of zero months may lead to a significant decrease in overall incarceration rates across the state.

The Subgroup discussed whether to increase the number of cells with a presumptive minimum of zero months. Member also wondered whether there should be a difference between offense seriousness level (OSL) 1 penalties and unranked offense penalties, which currently include a presumptive sentence range of zero to 12 months regardless of criminal history score.

Several potential recommendations emerged:

1. **Reduce the minimum of some cells** (*shaded in dark green in supporting materials below*) **to zero but keep the minimum at 6 months for other cells** (*shaded light green*). Some members felt the public and Legislature would not support dropping the minimum of all

southwest corner cells to zero and would want individuals with higher CHSs to face at least some incarceration time. However, members were not sure how much time such individuals should face (e.g., 3 months? 6 months?). Some members favor wider ranges (e.g., 1-12 months) to maximum judicial discretion.

2. **Presumptive minimums in the southwest corner could include at least some incarceration time for crimes against persons, while all other types of crimes would have a presumptive minimum of zero months.** Members suggested putting a separate minimum in parentheses within cells with a footnote to the grid that indicates that parenthetical minimums apply to offenses classified in statute as a crime against a person.
3. **Establish a non-incarcerative alternative sanction as the presumptive sentence for offenses in the southwest corner.** The Subgroup discussed a presumptive community supervision sentence in lieu of incarceration for all green cells (see supporting materials) while leaving confinement terms as an option up to judicial discretion.

Regardless of what changes to the grid the Task Force recommends, Subgroup members agreed more transparency is needed in sentencing across Washington state.

NEXT STEPS & ACTION ITEMS

- **The Facilitation Team** will type-up the preliminary recommendations and send meeting materials ahead of next week's Subgroup meeting.

SUPPORTING MATERIALS

Washington State Felony Sentencing Grid										
Offense Seriousness Level	0	1	2	3	4	5	6	7	8	9+
XVI	Life sentence without parole/death penalty for individuals at over the age of 18. For those under the age of 18, a term of 25 years to life.									
XV	240-320 m	250-333 m	261-347 m	271-361 m	281-374 m	291-388 m	312-416 m	338-450 m	370-493 m	411-548 m
XIV	123-220 m	134-234 m	144-244 m	154-254 m	165-265 m	175-275 m	195-295 m	216-316 m	257-357 m	298-397 m
XIII	123-164 m	134-178 m	144-192 m	154-205 m	165-219 m	175-233 m	195-260 m	216-288 m	257-342 m	298-397 m
XII	93-123 m	102-136 m	111-147 m	120-160 m	129-171 m	138-184 m	162-216 m	178-236 m	209-277 m	240-318 m
XI	78-102 m	86-114 m	95-125 m	102-136 m	111-147 m	120-158 m	146-194 m	159-211 m	185-245 m	210-280 m
X	51-68 m	57-75 m	62-82 m	67-89 m	72-96 m	77-102 m	98-130 m	108-144 m	129-171 m	149-198 m
IX	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	77-102 m	87-116 m	108-144 m	129-171 m
VIII	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	67-89 m	77-102 m	86-116 m	108-144
VII	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	57-75 m	67-89 m	77-102 m	87-116 m
VI	12+-14 m	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	46-61 m	57-75 m	67-89 m	77-102 m
V	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	41-54 m	51-68 m	62-82 m	72-96 m
IV	3-12	6-12								
	3-9 m	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	43-57 m	53-70 m	63-84 m
III	0-6	0 (3) -12	6-12							
	1-3 m	3-8 m	4-12 m	9-12 m	12+-16 m	17-22 m	22-29 m	33-43 m	43-57 m	51-68 m
II	0-3	0-6	0-12	6-12						
	0-90 d	2-6 m	3-9 m	4-12 m	12+-14 m	14-18 m	17-22 m	22-29 m	33-43 m	43-57 m
I	0-90 d	0-6	0-6	0-6	6-12	6-12				
	0-60 d	0-90 d	2-5 m	2-6 m	3-8 m	4-12 m	12+-14 m	14-18 m	17-22 m	22-29 m
	0-60 d	0-90 d	0-5	0-6	3-8	3-12	3-12	6-12	6-12	6-12