

**Washington State Criminal Sentencing Task Force**  
**Sentencing Grid Subgroup**  
**Meeting Summary: July 13, 2021**  
Zoom Digital Conferencing Technology

**Attendees:**

- Russ Brown (alt. for Jon Tunheim), *WA Association of Prosecuting Attorneys*
- Keri-Anne Jetzer (alt. for Judge Saint Clair), *Sentencing Guidelines Commission*
- Greg Link, *Washington Association of Criminal Defense Attorneys; Washington Defender Association*
- Judge Wesley Saint Clair, *Sentencing Guidelines Commission*
- 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*

**Guests:** Bruce Glant, Corey Patton, Joanne Smieja, and David Triewailer

**Facilitation Team:** Amanda Murphy, Chris Page, Molly Stenovec, and Maggie Counihan

**WELCOME & AGENDA REVIEW**

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda, noting the goal of having a first offer of recommendations by the August 5<sup>th</sup> Task Force meeting.

**DISCUSSION ON OFFENSE SERIOUSNESS LEVELS**

Keri-Anne shared background and history on offense seriousness level (SL) 14. The current Seriousness Level 14 on the standard sentencing grid has been an exception to the rest of the grid's Seriousness Levels for decades.

As of 1997, Murder 1 was ranked at SL14 and Murder 2 was ranked at SL 13. Murder 2 was the only offense under SL 13 at that time. During the 1997 Legislative session, the high end of each cell range was increased for Murder 2 (SL 13 – see history for 1997 below) so they would be closer to the lower end of the ranges for Murder 1 (SL 14). The changes the Legislature made to the upper cell ranges did not comport with RCW 9.94A.506 that requires the low end of a range to be no less than 75% of the high end of the range when the high end of the range is greater than one year, so the language was amended as well. The new language permitted the low end of the ranges to be no less than 50% of the high range for Murder 2 (SL 13) only.

Also in 1997, the Terrorist Act added Malicious Explosion 2 and Malicious Placement of an Explosive 1 offenses to SL13. Because the statute states only Murder 2 cell ranges can be at 50%, the Legislature had to correct this error now that these other two offenses were in SL 13 with Murder 2.

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In 1999, a new SL 13 that comported with the 75% rule was created. The other Seriousness Levels were increased, e.g. SL 13 became SL 14, SL 14 became SL15, and SL 15 became SL 16. That meant Murder 2 was now SL 14 and Murder 1 was SL 15.

Under today's standard sentencing grid, Murder 2 is still ranked at SL 14 and the low end of the cell ranges in SL 14 are still not less than 50% of the high end of the ranges. In all other SLs on the grid where the high end of the range is greater than one year, cell ranges comport with the 75% of the high end of the range requirement.

In 2003, the Trafficking 1 offense was created and ranked as a SL 14 offense. This offense is not included in statute as being allowed cell ranges that use the 50% calculation

[See RCW 9.94A.506](#)

The subgroup discussed the percentages listed in statute that delineate the ranges within cells and asked why those percentages were chosen. Keri-Anne replied that the SGC's working papers do not explain that reasoning. Subgroup members suggested that the SGC likely used Minnesota guidelines when they created the WA state grid, and that could be the origin of those percentages.

Amanda shared a spreadsheet from Lauren Knoth comparing the high end of sentence ranges on grids used in other states. The Subgroup observed that WA has some of the highest ranges (longest sentence lengths) compared to other states.

The group also talked about racial disparity and whether specific changes to the grid would reduce disparity. A member suggested that having a single number for the sentence length in any given cell, instead of a range, could help mitigate disparity because this would limit judicial discretion. Members discussed how discretion could be shifted from judges to prosecutors and defense, and that limiting judicial discretion may not help nor lead to reducing racial disparities.

#### **NEXT STEPS & ACTION ITEMS**

- **The Subgroup** will continue to discuss the top of the grid and look at a grid simulation with ideas already discussed.