

Washington State Criminal Sentencing Task Force Meeting

September 2, 2021

1:00pm-4:30pm

ZOOM Meeting

Agenda

Agenda

- Task Force introductions and updates
- Updates: Co-Chairs, Facilitation Team, Sentencing Alternatives Workgroup
- Sentencing Grid Subgroup presentation & next offer of potential recommendations for Task Force input

Agenda

1:00pm
**Review Agenda,
Groundrules**

1:10pm
**Introductions and
Updates**

1:40pm
**Sentencing Grid
Subgroup Presentation
–Potential
Recommendations**

2:45pm
BREAK

3:00pm
**Discussion and Input on
Potential
Recommendations**

4:00pm
**Questions from
Observers**

4:30pm
Adjourn

ZOOM: Virtual Meeting Groundrules

Chat Reminder: We have disabled the private chat function to adhere to your groundrule of no side conversations.

*****If you want to chat to the facilitators or pass along info to the Task Force, please send your chat to Molly Stenovec, who monitors the chat.**

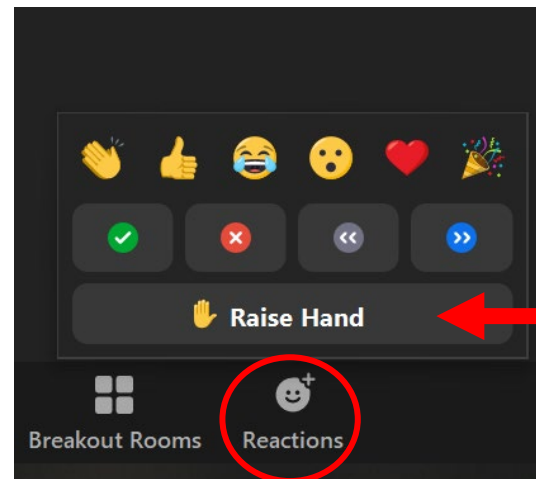
Phone Participation: For those only on via phone, we will facilitate discussion similar to in-person meetings. During discussion, we will start w/Task Force members “in the room” and then those on phone.

ZOOM: Virtual Meeting Groundrules

When you want to speak: To avoid talking over one another, we ask that those on video use the “raise your hand function”. The Facilitation Team will monitor this and call on folks individually, similar to how we use table tents during in-person meetings.

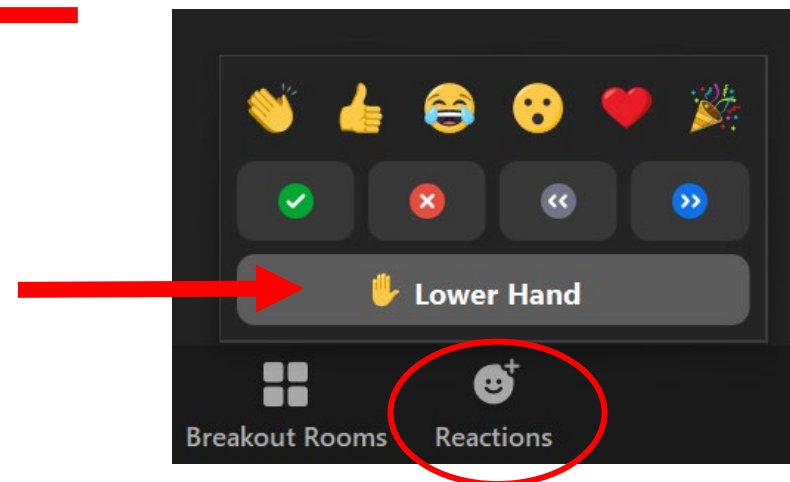
To access the “raise your hand function”:

Click on the “reactions” icon. Then “raise hand” button.



To lower “raised hand”: click “reactions” icon.

Then “lower hand” button.



Task Force Groundrules

Criminal Sentencing Task Force Groundrules

- **Be Respectful**
 - One person speaks at a time; listen when others are speaking, avoid interrupting and side conversations.
 - Keep comments brief so everyone gets a chance to share their thoughts. Avoid dominating the discussion.
 - **Hear and respect all opinions.**
 - Silence cell phones and refrain from using laptops during the meeting, except to take notes.
- **Be Constructive**
 - Acknowledge that all participants bring with them legitimate purposes, goals, concerns, and interests, whether or not you are in agreement with them.
 - Openly explore issues.
 - Act in “good faith,” **seeking to resolve conflicts and identify solutions.**
 - State concerns and interests clearly, listen carefully to and assume the best in others. Leave negative assumptions and attitudes at the door.
 - **Share comments that are solution focused,** rather than repeating past discussions.
 - It’s OK to disagree, it is not OK to make personal attacks.
 - Minimize the use of jargon and acronyms, define and explain when used.
 - Work towards consensus. Be willing to compromise.
 - **Ask for clarification when uncertain** of what another person is saying. Ask questions rather than make assumptions.
- **Be Productive**
 - Begin and end meetings on time.
 - Respect time constraints.
 - Adhere to the agenda as much as possible, focusing on the subject at hand.

1:10–1:40pm

Task Force Introductions

- **Members:** Please state name, affiliation, and constituency you represent.
- **Alternates:** Please state name, affiliation, and who you are an alternate for on the Task Force.

Co-Chair & Facilitator Updates

Sentencing Alternatives Work Group Updates

1:40–2:00pm

**Sentencing Grid Subgroup
Presentation & Discussion:
Potential Recommendations,
Tradeoffs, and Considerations**

The Current Grid

The portion of the grid that will be focused on today

| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|-------------|--------------|-----|-------|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-----|-----|-----|-----|
| XV | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| XIV | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |
| XIII | 123 | 164 | 134 | 178 | 144 | 192 | 154 | 205 | 165 | 219 | 175 | 233 | 195 | 260 | 216 | 288 | 257 | 342 | 298 | 397 |
| XII | 93 | 123 | 102 | 136 | 111 | 147 | 120 | 160 | 129 | 171 | 138 | 184 | 162 | 216 | 178 | 236 | 209 | 277 | 240 | 318 |
| XI | 78 | 102 | 86 | 114 | 95 | 125 | 102 | 136 | 111 | 147 | 120 | 158 | 146 | 194 | 159 | 211 | 185 | 245 | 210 | 280 |
| X | 51 | 68 | 57 | 75 | 62 | 82 | 67 | 89 | 72 | 96 | 77 | 102 | 98 | 130 | 108 | 144 | 129 | 171 | 149 | 198 |
| IX | 31 | 41 | 36 | 48 | 41 | 54 | 46 | 61 | 51 | 68 | 57 | 75 | 77 | 102 | 87 | 116 | 108 | 144 | 129 | 171 |
| VIII | 21 | 27 | 26 | 34 | 31 | 41 | 36 | 48 | 41 | 54 | 46 | 61 | 67 | 89 | 77 | 102 | 87 | 116 | 108 | 144 |
| VII | 15 | 20 | 21 | 27 | 26 | 34 | 31 | 41 | 36 | 48 | 41 | 54 | 57 | 75 | 67 | 89 | 77 | 102 | 87 | 116 |
| VI | 12.05 | 14 | 15 | 20 | 21 | 27 | 26 | 34 | 31 | 41 | 36 | 48 | 46 | 61 | 57 | 75 | 67 | 89 | 77 | 102 |
| V | 6 | 12 | 12.05 | 14 | 13 | 17 | 15 | 20 | 22 | 29 | 33 | 43 | 41 | 54 | 51 | 68 | 62 | 82 | 72 | 96 |
| IV | 3 | 9 | 6 | 12 | 12.05 | 14 | 13 | 17 | 15 | 20 | 22 | 29 | 33 | 43 | 43 | 57 | 53 | 70 | 63 | 84 |
| III | 1 | 3 | 3 | 8 | 4 | 12 | 9 | 12 | 12.05 | 16 | 17 | 22 | 22 | 29 | 33 | 43 | 43 | 57 | 51 | 68 |
| II | 0 | 3 | 2 | 6 | 3 | 9 | 4 | 12 | 12.05 | 14 | 14 | 18 | 17 | 22 | 22 | 29 | 33 | 43 | 43 | 57 |
| I | 0 | 2 | 0 | 3 | 2 | 5 | 2 | 6 | 3 | 8 | 4 | 12 | 12.05 | 14 | 14 | 18 | 17 | 22 | 22 | 29 |
| Unr | 0 - 365 days | | | | | | | | | | | | | | | | | | | |

Reminder: this was the portion of the grid discussed at the last meeting

Potential Recommendation #9

Eliminate the mandatory minimum for Murder 1.

Grid Group Discussion Points:

- Little difference between M1 and M2.
- Mandatory minimum gives more leverage/power/discretion to prosecutors particularly in plea bargaining process.
- Potential racial disproportionality in who gets charged with M1 vs M2.

Potential Recommendation #10

For aggravated murder 1 change the language from:

*“Life sentence without parole/death penalty for individuals at or over the age of **eighteen**. For individuals under the age of **eighteen**, a term of twenty-five years to life.”*

To

*“Life sentence without parole/death penalty for individuals at or over the age of **twenty-five**. For individuals under the age of **twenty-five**, a term of twenty-five years to life.”*

Grid Group Discussion Points:

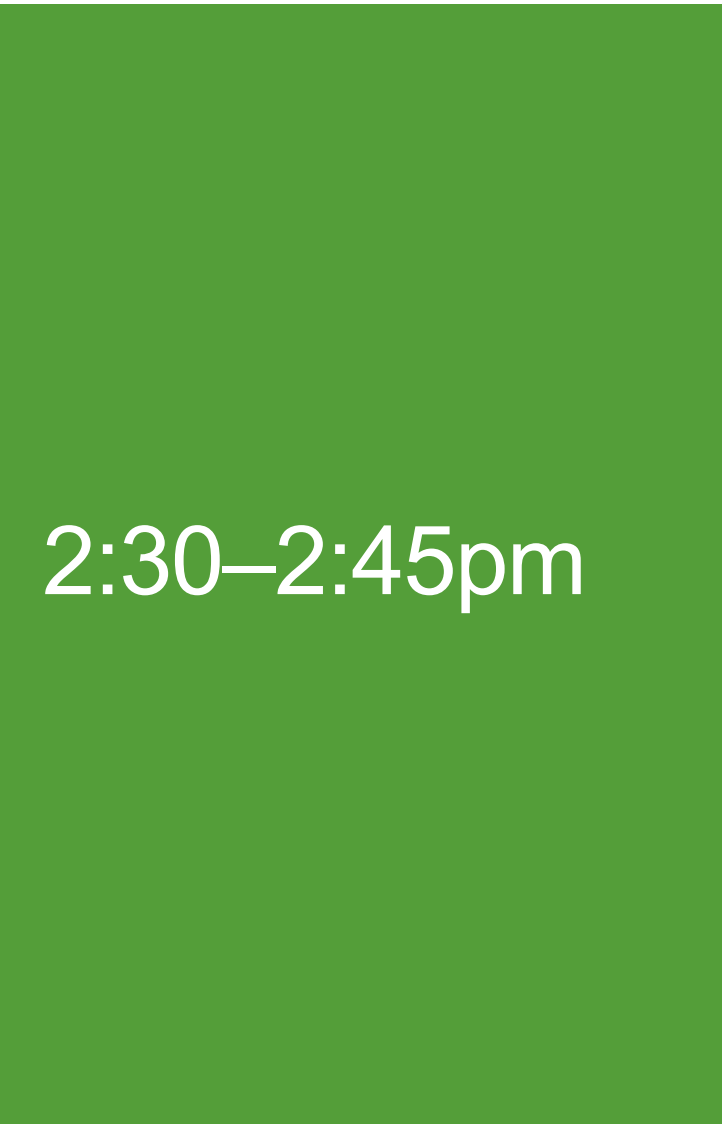
- Recent Supreme Court decisions recognize the emerging brain science and Washington Legislature has made other policy changes recognizing continued brain development between the ages of 18 and 25.

Potential Recommendation #11

For all sentences longer than 20 years, require a second chance review at 20 years of incarceration with the presumption of release.

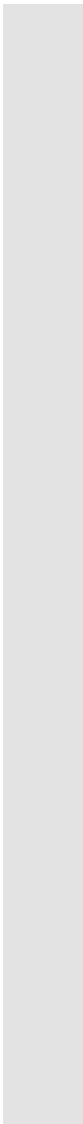
Grid Group Discussion Points:

- Similar to current statutes for individuals convicted of offenses committed before age 18.
- Recognizes that extremely long sentences may not be beneficial/useful.
- Acknowledges potential for rehabilitation and redeemability.



2:30–2:45pm

BREAK



2:45–4:00pm

CONT.

**Sentencing Grid Subgroup
Presentation and Discussion:
Potential Recommendations,
Tradeoffs, and Considerations**

The Current Grid

RCW 9.94A.506

- (1) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;
- (2) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range.

These limitations (with the exception of Murder 2 in seriousness level 14) were part of the Sentencing Reform Act of 1981 as set by the Legislature. The Sentencing Guidelines Commission was required to incorporate them into its recommended sentence ranges.

The SGC collected data from various agencies from FY1979 – FY1981 to assist in creation of sentence ranges.

The Current Grid

| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|------|--------------|-----|-------|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-----|-----|-----|-----|
| XV | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| XIV | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |
| XIII | 123 | 164 | 134 | 178 | 144 | 192 | 154 | 205 | 165 | 219 | 175 | 233 | 195 | 260 | 216 | 288 | 257 | 342 | 298 | 397 |
| XII | 93 | 123 | 102 | 136 | 111 | 147 | 120 | 160 | 129 | 171 | 138 | 184 | 162 | 216 | 178 | 236 | 209 | 277 | 240 | 318 |
| XI | 78 | 102 | 86 | 114 | 95 | 125 | 102 | 136 | 111 | 147 | 120 | 158 | 146 | 194 | 159 | 211 | 185 | 245 | 210 | 280 |
| X | 51 | 68 | 57 | 75 | 62 | 82 | 67 | 89 | 72 | 96 | 77 | 102 | 98 | 130 | 108 | 144 | 129 | 171 | 149 | 198 |
| IX | 31 | 41 | 36 | 48 | 41 | 54 | 46 | 61 | 51 | 68 | 57 | 75 | 77 | 102 | 87 | 116 | 108 | 144 | 129 | 171 |
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| I | 0 | 2 | 0 | 3 | 2 | 5 | 2 | 6 | 3 | 8 | 4 | 12 | 12.05 | 14 | 14 | 18 | 17 | 22 | 22 | 29 |
| Unr | 0 - 365 days | | | | | | | | | | | | | | | | | | | |

RCW 9.94A.506

- (1) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;
- (2) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range.

Grid Subgroup Considering A Formula

- Durability – creating a structure gives guidance to Legislators for future policy decisions.
 - Currently, the absence of structure means that policies are not always consistent with past practices and lead to continuous variation, exceptions, and inconsistency
- Consistency – creating consistency within the grid.
 - Current grid does not have consistency in the increase in sanctions with OSL or CHS. There isn't a particular way to answer the question: "Why are the ranges what they are?"
 - Formula can directly consider other statutory sentencing regulations like statutory maximum to create consistency across different aspects of the sentencing structure.
- **Note:** recalibration will likely be necessary to make sure certain offenses make sense within the new structure and formula. The focus is not on any particular offense, but rather the State's policy and views on sentencing broadly. Changes to particular SL's may be necessary once the overall grid structure is established.

Potential Recommendations 12, 12a, and 12b

- Potential modifications to OSLs 10 and above.
- Focus is on violent offenses.
- Focus is on implementation of the consistent/formulaic approach to setting guideline ranges while considering unique characteristics of offenses in the upper range.

Grid Group Discussion Points/Considerations:

- Formula provides an answer to “why this range”
- Creates logical consistency in how sentence lengths change as OSL increases and as CHS increases
- Long term durability of changes
- Focus is on creating the structure of the grid. Individual offenses may need to be recalibrated on the new grid to account for the ad-hoc decisions in the past.

Offenses at Upper OSLs

| OSL | Offense | Total FY19 |
|-----|--|------------|
| 16 | Aggravated murder 1 | 6 |
| 15 | Homicide by abuse | 0 |
| 15 | Malicious explosion of a substance 1 | 0 |
| 15 | Murder 1 | 59 |
| 14 | Murder 2 | 60 |
| 14 | Trafficking 1st degree | 0 |
| 13 | Malicious explosion of a substance 2 | 0 |
| 13 | Malicious placement of explosives 1 | 0 |
| 12 | Assault 1 | 82 |
| 12 | Assault of a child 1 | 2 |
| 12 | Commercial sex abuse a minor - promote | 4 |
| 12 | Rape 1 | 10 |
| 12 | Rape of a child 1 | 83 |
| 12 | Trafficking 2nd degree | 2 |
| 11 | Manslaughter 1 | 20 |
| 11 | Rape 2 | 20 |
| 11 | Rape of a child 2 | 67 |
| 11 | Vehicular homicide - DUI | 24 |
| 11 | Vehicular homicide – reckless endangerment | 3 |
| 10 | Child molestation 1 | 107 |
| 10 | Indecent liberties with force | 8 |
| 10 | Kidnapping 1 | 13 |
| 10 | Leading organized crime | 2 |
| 10 | Sexually violent predator escape | 0 |

Reminder:
 Previous recommendations moved several Class B felony offenses out of these OSLs, so there are 3 offenses omitted here.

OSL 10-16 are all Class A felonies – thus a separate zone for violent offenses.

Other Sentencing Laws

- RCW 9.94A.540
 - Murder in the first degree - mandatory minimum 20 years
 - Rape in the first degree – mandatory minimum 5 years
 - Sexually violent predator escape – mandatory minimum 5 years
 - Assault 1 (where used force or means likely to result in death or intended to kill the victim) – mandatory minimum 5 years
- RCW 10.95.030
 - Aggravated first degree murder – mandatory life in prison without possibility of parole*
- RCW 9.94A.506
 - For murder in the second degree in seriousness level XIV, the minimum term shall be no less than 50 percent of the maximum term.

These exceptions complicate the use of a standardized/formulaic approach.

Current Grid

| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|---------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 16 Aggravated Murder 1 | Life Without Parole | | | | | | | | | | | | | | | | | | | |
| Homicide by Abuse | | | | | | | | | | | | | | | | | | | | |
| 15 Malicious Explosion 1 | | | | | | | | | | | | | | | | | | | | |
| Murder 1 | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| 14 Murder 2 | | | | | | | | | | | | | | | | | | | | |
| Trafficking 1st Degree | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |
| 13 Malicious Explosion 2 | | | | | | | | | | | | | | | | | | | | |
| Malicious Placement of Explosives 1 | 123 | 164 | 134 | 178 | 144 | 192 | 154 | 205 | 165 | 219 | 175 | 233 | 195 | 260 | 216 | 288 | 257 | 342 | 298 | 397 |
| Assault 1 | | | | | | | | | | | | | | | | | | | | |
| Assault of a child 2 | | | | | | | | | | | | | | | | | | | | |
| 12 Comm. Sex Abuse of a Minor - Promote | | | | | | | | | | | | | | | | | | | | |
| Rape 1 | | | | | | | | | | | | | | | | | | | | |
| Rape of a child 1 | | | | | | | | | | | | | | | | | | | | |
| Trafficking 2nd degree | 93 | 123 | 102 | 136 | 111 | 147 | 120 | 160 | 129 | 171 | 138 | 184 | 162 | 216 | 178 | 236 | 209 | 277 | 240 | 318 |
| Manslaughter 1 | | | | | | | | | | | | | | | | | | | | |
| 11 Rape 2 | | | | | | | | | | | | | | | | | | | | |
| Rape of a Child 2 | | | | | | | | | | | | | | | | | | | | |
| Veh. Homicide DUI/Reckless | 78 | 102 | 86 | 114 | 95 | 125 | 102 | 136 | 111 | 147 | 120 | 158 | 146 | 194 | 159 | 211 | 185 | 245 | 210 | 280 |
| Child Molestation 1 | | | | | | | | | | | | | | | | | | | | |
| Indecent liberties with force | | | | | | | | | | | | | | | | | | | | |
| 10 Kidnapping 1 | | | | | | | | | | | | | | | | | | | | |
| Leading organized crime | | | | | | | | | | | | | | | | | | | | |
| Sexually Violent Predator Escape | 51 | 68 | 57 | 75 | 62 | 82 | 67 | 89 | 72 | 96 | 77 | 102 | 98 | 130 | 108 | 144 | 129 | 171 | 149 | 198 |

Potential Recommendation 12

- *Increase the number of seriousness levels from 16 to 18 whereby:*
 - *OSL 18 is Aggravated Murder with a range of 25 to life regardless of Criminal History Score (as it currently is in SL 16)*
 - *OSL 17 is Murder 1 and Homicide by Abuse with current ranges for Murder 1*
 - *OSL 16 is Murder 2 with current maximums, but minimums made consistent at 50% of the maximum.*
 - *OSL 15 to 10 are as classified currently except for the offenses pulled out above. The formula is used starting at OSL 16.*
- **Formula is same as OSL 1-5**
 - Anchor is the maximum for OSL 16
 - Maximum for CHS 9+ in each row established by creating equal intervals in the maximum for each row.
 - Maximum for CHS 0 is calculated as 35% of the CHS 9+ maximum.
 - Maximum for each CHS after CHS 0 is 110% of the maximum for the previous CHS.
 - Minimum is 75% of the maximum.

Potential Recommendation 12

- *Increase the number of seriousness levels from 16 to 18 whereby:*
 - *OSL 18 is Aggravated Murder with a range of 25 to life regardless of Criminal History Score (as it currently is in SL 16)*
 - *OSL 17 is Murder 1 and Homicide by Abuse with current ranges for Murder 1*
 - *OSL 16 is Murder 2 with current maximums, but minimums made consistent at 50% of the maximum.*
 - *OSL 15 to 10 are as classified currently except for the offenses pulled out above. The formula is used starting at OSL 16.*
- **Grid Group Discussion Points:**
 - Maintains the ability to use a systematic/formulaic approach.
 - We cannot use the formula for Murder 1 due to the mandatory minimum. Sentence ranges would increase to over 1000 months
 - Other offenses in OSL 15 and OSL 14 aren't tied to the mandatory minimum statutes for Murder 1 and Murder 2 but are affected by them as a function of their seriousness level on the grid.
 - Reduces sentences for the majority of offenses, but keeps Aggravated Murder, Murder 1, and Murder 2 the same.
 - Sentencing trends commonly at or below the midpoint for these offenses.
 - Judges/prosecutors can still seek aggravated sentences for particularly egregious offenses
 - Sentences in these rows often greater than what appears on the grid due to sentencing enhancements, consecutive sentencing, and aggravating factors.

Potential Recommendation 12

- **Murder 1, Homicide by Abuse, and Murder 2 moved to their own OSLs.**
- **Expands the grid from 16 to 18 rows.**
- **Ranges for Murder 1 unchanged. Maxs for Murder 2 are the same, but minimums are different.**

| Offenses Within Each SL | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|-----------|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Aggr Murder | 18 | Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life | | | | | | | | | | | | | | | | | | | |
| Murder 1 (<i>mandatory minimum of 20 years</i>) Homicide by Abuse (<i>no mandatory minimum</i>) | 17 | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| Murder 2 | 16 | 110 | 220 | 117 | 234 | 122 | 244 | 127 | 254 | 132 | 265 | 137 | 275 | 147 | 295 | 158 | 316 | 178 | 357 | 198 | 397 |
| Malicious Explosion of a Substance 1 | 15 | 93 | 124 | 102 | 137 | 113 | 150 | 124 | 165 | 136 | 182 | 150 | 200 | 165 | 220 | 182 | 242 | 200 | 267 | 267 | 356 |
| Trafficking 1 | 14 | 82 | 110 | 90 | 121 | 100 | 133 | 110 | 146 | 121 | 161 | 133 | 177 | 146 | 195 | 161 | 214 | 177 | 236 | 236 | 315 |
| Malicious Explosion of a Substance 2 Malicious Placement of an Explosive 1 | 13 | 71 | 95 | 79 | 105 | 87 | 116 | 95 | 127 | 105 | 140 | 115 | 154 | 127 | 169 | 140 | 186 | 154 | 205 | 205 | 274 |
| Assault 1 Assault of a Child 1 Promoting Commercial Sexual Abuse of a Minor | 12 | 61 | 81 | 67 | 89 | 74 | 98 | 81 | 108 | 89 | 119 | 98 | 131 | 108 | 144 | 119 | 158 | 131 | 174 | 174 | 233 |
| Rape 1 Rape of a Child 1 Trafficking 1 | 11 | 50 | 67 | 55 | 73 | 60 | 81 | 67 | 89 | 73 | 98 | 81 | 108 | 89 | 119 | 98 | 130 | 108 | 144 | 144 | 192 |
| Manslaughter 1 Rape 2 Rape of a Child 2 Vehicular Homicide - DUI/Reckless Manner | 10 | 39 | 52 | 43 | 58 | 47 | 63 | 52 | 70 | 58 | 77 | 63 | 85 | 70 | 93 | 77 | 102 | 84 | 113 | 113 | 151 |
| Child Molestation 1 Indecent Liberties - w Forcible Compulsion Kidnapping 1 Leading Organized Crime Sexually Violent Predator Escape | 9 | 39 | 52 | 43 | 58 | 47 | 63 | 52 | 70 | 58 | 77 | 63 | 85 | 70 | 93 | 77 | 102 | 84 | 113 | 113 | 151 |

Potential Recommendation 12 – Change in Min and Max

- Sentences across the board decrease except for maximums for Murder 2.
- Reductions range from 12 months to 226 months
- Average reduction is 70 months; median reduction is 55 months

| | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|-----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Murder 2 | 16 | 13 | 0 | 17 | 0 | 22 | 0 | 27 | 0 | 33 | 0 | 38 | 0 | 48 | 0 | 58 | 0 | 79 | 0 | 100 | 0 |
| Malicious Explosion of a Substance 1 | 15 | 147 | 196 | 148 | 196 | 148 | 197 | 147 | 196 | 145 | 192 | 141 | 188 | 147 | 196 | 156 | 208 | 170 | 226 | 144 | 192 |
| Trafficking 1 | 14 | 41 | 110 | 44 | 113 | 44 | 111 | 44 | 108 | 44 | 104 | 42 | 98 | 49 | 100 | 55 | 102 | 80 | 121 | 62 | 82 |
| Malicious Explosion of a Substance 2 | 13 | 52 | 69 | 55 | 73 | 57 | 76 | 59 | 78 | 60 | 79 | 60 | 79 | 68 | 91 | 76 | 102 | 103 | 137 | 93 | 123 |
| Malicious Placement of an Explosive 1 | | | | | | | | | | | | | | | | | | | | | |
| Assault 1 | 12 | 32 | 42 | 35 | 47 | 37 | 49 | 39 | 52 | 40 | 52 | 40 | 53 | 54 | 72 | 59 | 78 | 78 | 103 | 66 | 85 |
| Assault of a Child 1 | | | | | | | | | | | | | | | | | | | | | |
| Promoting Commercial Sexual Abuse of a Minor | | | | | | | | | | | | | | | | | | | | | |
| Rape 1 | | | | | | | | | | | | | | | | | | | | | |
| Rape of a Child 1 | 11 | 28 | 35 | 31 | 41 | 35 | 44 | 35 | 47 | 38 | 49 | 39 | 50 | 57 | 75 | 61 | 81 | 77 | 101 | 66 | 88 |
| Trafficking 1 | | | | | | | | | | | | | | | | | | | | | |
| Manslaughter 1 | | | | | | | | | | | | | | | | | | | | | |
| Rape 2 | 10 | 12 | 16 | 14 | 17 | 15 | 19 | 15 | 19 | 14 | 19 | 14 | 17 | 28 | 37 | 31 | 42 | 45 | 58 | 36 | 47 |
| Rape of a Child 2 | | | | | | | | | | | | | | | | | | | | | |
| Vehicular Homicide - DUI/Reckless Manner | | | | | | | | | | | | | | | | | | | | | |
| Child Molestation 1 | | | | | | | | | | | | | | | | | | | | | |
| Indecent Liberties - w Forcible Compulsion | | | | | | | | | | | | | | | | | | | | | |
| Kidnapping 1 | | | | | | | | | | | | | | | | | | | | | |
| Leading Organized Crime | | | | | | | | | | | | | | | | | | | | | |
| Sexually Violent Predator Escape | | | | | | | | | | | | | | | | | | | | | |

*Green cells indicate a decrease in the minimum or maximum.

Potential Recommendation 12a

*Move Trafficking 1 to OSL 15 with Malicious Explosion of a Substance 1.
Move all other offenses up one OSL.*

- If the grid is expanded to 18 rows, there are two OSLs that would have only one offense (OSL 15 with Malicious Explosion of a Substance 1 and OSL 14 with Trafficking 1).
- Increasing the OSL by 1 would moderate the reduction in sentences that result from applying the formula to OSL 10 and above.
- This leaves OSL 10 empty, creating room to recalibrate offenses below OSL 10 (*we will revisit this next meeting – potential directive to SGC to conduct review in developing Potential Rec 13*)

Proposed Potential Changes 12a

- Collapse Malicious Explosion 1 & Trafficking 1 into SL 15. Move all other offenses up 1 SL.
- Leaves open OSL 10 for Class A felonies in OSL 9 and below that may need to be recalibrated to 10 or above under new grid structure.

| Offenses Within Each SL | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|----|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Aggr Murder | 18 | Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life | | | | | | | | | | | | | | | | | | | |
| Murder 1 (<i>mandatory minimum of 20 years</i>) Homicide by Abuse (<i>no mandatory minimum</i>) | 17 | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| Murder 2 | 16 | 110 | 220 | 117 | 234 | 122 | 244 | 127 | 254 | 132 | 265 | 137 | 275 | 147 | 295 | 158 | 316 | 178 | 357 | 198 | 397 |
| Malicious Explosion of a Substance 1 Trafficking 1 | 15 | 93 | 124 | 102 | 137 | 113 | 150 | 124 | 165 | 136 | 182 | 150 | 200 | 165 | 220 | 182 | 242 | 200 | 267 | 267 | 356 |
| Malicious Explosion of a Substance 2 Malicious Placement of an Explosive 1 | 14 | 82 | 110 | 90 | 121 | 100 | 133 | 110 | 146 | 121 | 161 | 133 | 177 | 146 | 195 | 161 | 214 | 177 | 236 | 236 | 315 |
| Assault 1 Assault of a Child 1 Promoting Commercial Sexual Abuse of a Minor Rape 1 Rape of a Child 1 Trafficking 1 | 13 | 71 | 95 | 79 | 105 | 87 | 116 | 95 | 127 | 105 | 140 | 115 | 154 | 127 | 169 | 140 | 186 | 154 | 205 | 205 | 274 |
| Manslaughter 1 Rape 2 Rape of a Child 2 Vehicular Homicide - DUI/Reckless Manner | 12 | 61 | 81 | 67 | 89 | 74 | 98 | 81 | 108 | 89 | 119 | 98 | 131 | 108 | 144 | 119 | 158 | 131 | 174 | 174 | 233 |
| Child Molestation 1 Indecent Liberties - w Forcible Compulsion Kidnapping 1 Leading Organized Crime Sexually Violent Predator Escape | 11 | 50 | 67 | 55 | 73 | 60 | 81 | 67 | 89 | 73 | 98 | 81 | 108 | 89 | 119 | 98 | 130 | 108 | 144 | 144 | 192 |
| <Held for recalibration of other offenses> | 10 | 39 | 52 | 43 | 58 | 47 | 63 | 52 | 70 | 58 | 77 | 63 | 85 | 70 | 93 | 77 | 102 | 84 | 113 | 113 | 151 |

Potential Recommendation 12a – Change in Min and Max

- Most sentences decrease, but much less than previous proposal.
- Reductions range from 1 month to 226.
- Average reduction is 55 months; median reduction is 36 months.
- Largest changes for Malicious Explosion of a Substance 1 (0 cases FY00 - FY20)

| | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Murder 2 | 16 | 13 | 0 | 17 | 0 | 22 | 0 | 27 | 0 | 33 | 0 | 38 | 0 | 48 | 0 | 58 | 0 | 79 | 0 | 100 | 0 |
| Malicious Explosion of a Substance 1 | 15 | 147 | 196 | 148 | 196 | 148 | 197 | 147 | 196 | 145 | 192 | 141 | 188 | 147 | 196 | 156 | 208 | 170 | 226 | 144 | 192 |
| Trafficking 1 | | 30 | 96 | 32 | 97 | 31 | 94 | 30 | 89 | 29 | 83 | 25 | 75 | 30 | 75 | 34 | 74 | 57 | 90 | 31 | 41 |
| Malicious Explosion of a Substance 2 | 14 | | | | | | | | | | | | | | | | | | | | |
| Malicious Placement of an Explosive 1 | | 41 | 54 | 44 | 57 | 44 | 59 | 44 | 59 | 44 | 58 | 42 | 56 | 49 | 65 | 55 | 74 | 80 | 106 | 62 | 82 |
| Assault 1 | | | | | | | | | | | | | | | | | | | | | |
| Assault of a Child 1 | | | | | | | | | | | | | | | | | | | | | |
| Promoting Commercial Sexual Abuse of a Minor | 13 | | | | | | | | | | | | | | | | | | | | |
| Rape 1 | | | | | | | | | | | | | | | | | | | | | |
| Rape of a Child 1 | | | | | | | | | | | | | | | | | | | | | |
| Trafficking 1 | | 22 | 28 | 23 | 31 | 24 | 31 | 25 | 33 | 24 | 31 | 23 | 30 | 35 | 47 | 38 | 50 | 55 | 72 | 35 | 44 |
| Manslaughter 1 | | | | | | | | | | | | | | | | | | | | | |
| Rape 2 | 12 | | | | | | | | | | | | | | | | | | | | |
| Rape of a Child 2 | | | | | | | | | | | | | | | | | | | | | |
| Vehicular Homicide - DUI/Reckless Manner | | 17 | 21 | 19 | 25 | 21 | 27 | 21 | 28 | 22 | 28 | 22 | 27 | 38 | 50 | 40 | 53 | 54 | 71 | 36 | 47 |
| Child Molestation 1 | | | | | | | | | | | | | | | | | | | | | |
| Indecent Liberties - w Forcible Compulsion | | | | | | | | | | | | | | | | | | | | | |
| Kidnapping 1 | 11 | | | | | | | | | | | | | | | | | | | | |
| Leading Organized Crime | | | | | | | | | | | | | | | | | | | | | |
| Sexually Violent Predator Escape | | 1 | 1 | 2 | 2 | 2 | 1 | 0 | 0 | -1 | -2 | -4 | -6 | 9 | 11 | 10 | 14 | 21 | 27 | 5 | 6 |
| <Held for recalibration of other offenses> | 10 | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |

*Green cells indicate a decrease in the minimum or maximum. Red cells indicate an increase.

Potential Recommendation 12b

Collapse the ranges for Murder 1 for Criminal History Scores 0-4 and 5-9+.

- Because of the mandatory minimum, we cannot apply the formula to Murder 1.
- Proposed ranges would keep the current minimum for CHS 0 and approximate the Maximum in CHS 4, the Minimum in CHS 5 and the Maximum in CHS 9+

| | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|-----|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Aggr Murder 1 | XVI | Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life | | | | | | | | | | | | | | | | | | | |
| Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum) | XV | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| Murder 2 | XIV | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |

| | | Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life | | | | | | | | | | | | | | | | | | | |
|--|-----|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Aggr Murder 1 | XVI | | | | | | | | | | | | | | | | | | | | |
| Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum) | XV | 240 - 360 | | | | | | | | | | 300-540 | | | | | | | | | |
| Murder 2 | XIV | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |

Potential Recommendation 12b

Collapse the ranges for Murder 1 for Criminal History Scores 0-4 and 5-9+.

Grid Group Discussion points:

- Would increase the maximum in some cases (7 columns) and would decrease the minimum for some cases (8 columns).
- Would it increase or decrease prosecutorial discretion? Defense discretion?
- The difference between Murder 1 and Murder 2 is minimal
- Potential racial disproportionality in who is charged with M1 vs. M2

| | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | | | | | | | | | | |
|--|-----|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Aggr Murder 1 | XVI | Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life | | | | | | | | | | | | | | | | | | | |
| Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum) | XV | 240 | 320 | 250 | 333 | 261 | 347 | 271 | 361 | 281 | 374 | 291 | 388 | 312 | 416 | 338 | 450 | 370 | 493 | 411 | 548 |
| Murder 2 | XIV | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |

| | | Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life | | | | | | | | | | | | | | | | | | | |
|--|-----|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Aggr Murder 1 | XVI | | | | | | | | | | | | | | | | | | | | |
| Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum) | XV | 240 - 360 | | | | | | | | | | 300-540 | | | | | | | | | |
| Murder 2 | XIV | 123 | 220 | 134 | 234 | 144 | 244 | 154 | 254 | 165 | 265 | 175 | 275 | 195 | 295 | 216 | 316 | 257 | 357 | 298 | 397 |

Open Discussion – New Zone

- Potential to create new “zone” on the grid for OSL 10 and above
- Zone includes only Class A felonies – thus, violent offenses
- Policies affecting zones do not have to be limited to sentence lengths

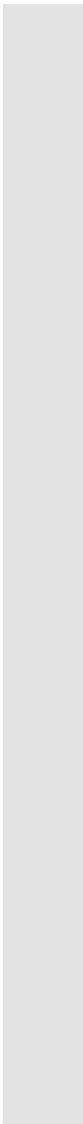
- **What other forms of accountability could help victims?**
 - Require the court give victims the option to submit Victim Impact Statement in this zone?
 - Mandatory restitution in this zone?

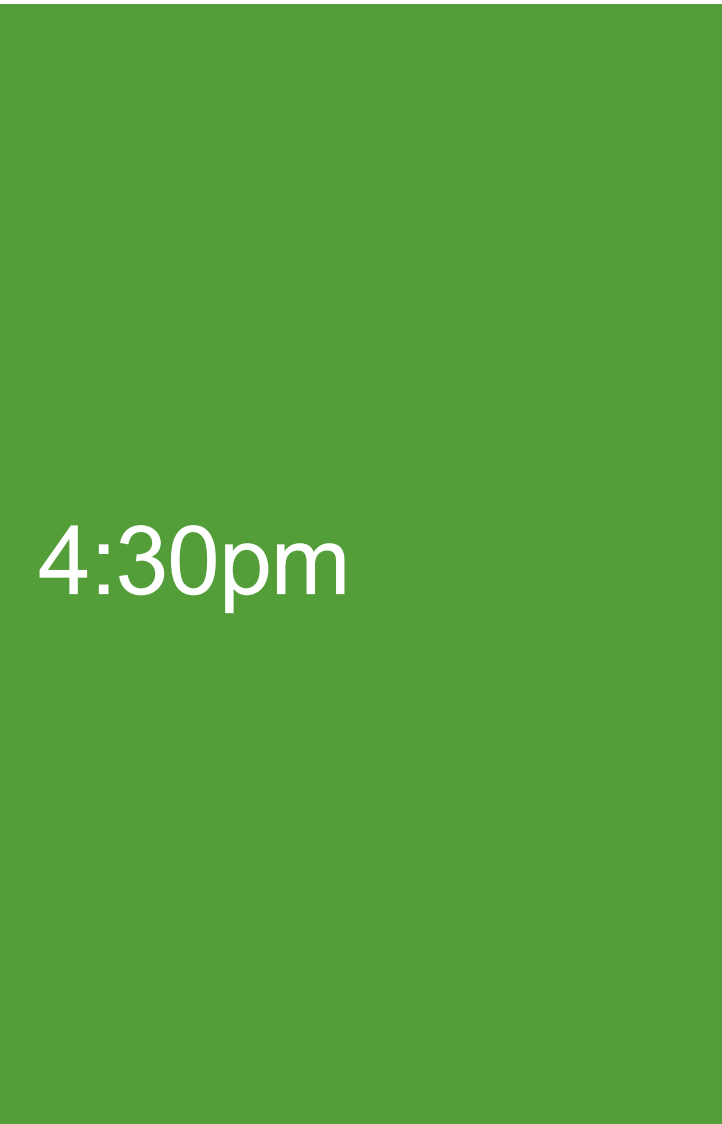
- **What other forms of accountability could be integrated for defendants?**
 - Require drug and alcohol assessments?
 - Require some form of rehabilitative treatment?
 - Create special sentencing conditions for repeat-violent convictions?



4:00–4:30pm

Questions from Observers





4:30pm

ADJOURN

