

Washington State Criminal Sentencing Task Force
Meeting Summary: February 3, 2022 Virtual Meeting
via ZOOM – [Link to recording via TVW](#)

ATTENDEES:

- **Task Force Members and Alternates:** *See Appendix A*
- **Members of the Public:** *See pg. 14*
- **Facilitation Team:** Amanda Murphy, Chris Page, Molly Stenovec, Maggie Counihan – Ruckelshaus Center
- **Research/Technical Support:** Lauren Knoth, *Washington State Institute for Public Policy (WSIPP)*

MEETING GOALS:

- Task Force introductions and updates
- Update from Sentencing Alternatives Workgroup
- Update on 2022 legislation related to Task Force’s work
- Discuss vacant co-chair position
- Presentation and discussion of potential recommendations from Grid Subgroup

WELCOME, INTRODUCTIONS, AGENDA REVIEW and GROUND RULES

Amanda Murphy welcomed attendees and introduced herself and the rest of the facilitation team before reviewing the agenda and meeting goals. Members and alternates provided introductions and affiliations.

CO-CHAIR UPDATES

Task Force Co-Chairs Rep. Goodman and Jon Tunheim described the meeting topic as detailed and complex but necessary to the work of the group. Rep. Goodman mentioned a request submitted to the Budget Committee in the state Legislature to extend the Task Force until June 30, 2023.

LEGISLATIVE UPDATE

Rep. Goodman provided the Task Force with an update on the 2022 legislative session. He has submitted the request to Appropriations which would support and authorize the Task Force for another year—through June 30, 2023.

He then provided an overview of active bills, including ones directly related to Task Force recommendations, as well as bills that may be of interest.

Bills related to Task Force recommendations, including some introduced during the 2021 session:

- [HB 1169](#) – concerning sentencing enhancements, which relates to Task Force recommendations
- [HB 1126](#) – related to limiting tolling of community custody terms
- [HB 1412](#) – concerning legal financial obligations.

Bills that may be of interest:

- [SB 5036](#) – concerning conditional commutation by the clemency and pardons board
- [HB 1413](#) – related to the scoring of prior juvenile offenses in sentencing range calculations

FACILITATION TEAM UPDATES

The Task Force meeting in March will be virtual. The facilitation team will continue to assess conditions and university guidelines regarding in-person meetings. In the event of in-person meetings the facilitation team will provide a hybrid option for remote participation to meet all participants' needs.

Amanda gave a brief update on the Sentencing Alternatives Workgroup. They have been looking at alternatives and the statutory eligibility criteria related to them. The workgroups next meeting will focus on how the alternatives fit on the sentencing guidelines grid.

DISCUSSION: VACANT CO-CHAIR POSITION [see video at 33:39](#)

Amanda reminded the Task Force of its open co-chair seat, previously filled by Lydia Flora Barlow. The Task Force decided in 2019 to have 3 co-chairs; one would be a Legislative member, and the other two be non-Legislative members that would represent the institutional elements of the system and the other would represent communities that are impacted by the system. Rep. Goodman and Jon Tunheim discussed recent conversations about the position and discussed who would be appropriate to serve in that role, noting they would like someone who has been on the Task Force since the beginning as they would have knowledge of the discussions and history of the group. They reported that Nick Allen has expressed interest and willingness to serve that role and that they support him filling the seat. Both co-chairs emphasized that it is a Task Force decision on who fills the position. Amanda asked if any other members would have interest in serving as a co-chair to let the facilitation team know. No members or alternates expressed that they had interest and willingness to serve; Amanda and Chris asked folks to email the facilitation team if they decided after today's meeting that they wish to serve. A formal consensus decision will take place at the March Task Force meeting.

CRIMINAL HISTORY SCORING & MULTIPLIERS [see video at 51:35](#)

Clela Steelhammer from the Caseload Forecast Council (CFC) provided an overview on scoring rules and multipliers including examples of scoring sheets.

Clela explained that as a general rule, adult offenses count as 1 point, juvenile violent offenses count as 1 point, juvenile non-violent offenses count as ½ point, which when added together the juvenile non-violent points get rounded down. Unranked offenses count as 0 points. If a person is on community custody at the time of an offense, 1 point is added to the criminal history score (CHS).

Multipliers and washout rules can mean that determining a person's CHS can involve complex calculations, especially in some instances in which certain "washout" rules mean that certain CHS points don't count. For example, an offense may not be considered violent, but it could score as if it were violent such as Robbery in the 2nd degree and it would score as a multiplier in certain situations. If it is attempted robbery 2nd degree it is not considered a violent offense but there is a statute that says it would have to be scored as if it were a violent offense. The CHS can range from 0 to 9+ and she noted that offenses that are unranked have a range of 0-12 months regardless of what the CHS is. There are also ways for CHS to not count if an individual had a crime free period in the community. Scoring exceptions are shown in the graphic below.

Scoring exceptions: multiple scoring for adult offenses:

Current Offense:	Other Currents/Prior Offenses Score:
Violent	Violent = 2 pts
Serious Violent	SV = 3pts (for offenses not ran consecutive), Violents = 2 pts
Burglary 1	Burlary = 2 pts, Violents or SV = 2 pts
Felony Traffic	Veh Homicide or Veh Assault = 2 pts
Asslt or Homicide By Watercraft	Asslt or Homicide By Watercraft = 2 pts
Manufacture of Meth	Manufacture of Meth = 3 pts
Drug Offense* with history of Sex or SV offenses:	Prior Drugs* = 3 pts
Burglary 2 or Residential Burglary	Burglaries = 2 pts
Sex Offense (other than Failure to Register)	Sex = 3 pts
Failure to Register defined as Sex offense	Sex = 3 pts (except sex offense of FTR = 1 pt)
Domestic Violence (DV)	DV = 2 pts
*Definition of Drug excludes simple possession of controlled substances.	

Presentation Highlights:

- The CFC publishes a scoring manual every year
- Clela walked the Task Force through the scoring sheet containing several scoring scenarios [linked here](#).
 - It includes scenarios that explain standard scoring, multipliers and how they affect scoring.
 - Scoring forms exist for each ranked felony offense
 - A member noted that in Thurston County, the scoring worksheet is also given to the Judge for review.
- Any sentence greater than a year is served at a Dept. of Corrections facility and any sentence 12 months and under is served at a local facility.
- The presumption is that sentences are run concurrently, meaning sentences are run at the same time. Consecutive sentencing means occurs one sentence at a time.
 - Exceptions to the presumption of concurrent sentencing include;
 - If an individual has more than one current serious violent offense
 - If an individual is restricted from having firearms and then they get another felony of unlawful possession of a firearm

Presentation: Philosophies of Punishment

Dr. Lauren Knoth (WSIPP) gave an overview of the five philosophies of punishment and, if applicable, inform multipliers and related policies ([begins at 01:14:05 of recording](#)). The philosophies are: Retribution, Incapacitation, Deterrence, Rehabilitation and Restoration. Most policies in the criminal justice system can be tied to one or more philosophies—philosophies are not mutually exclusive. The development of Washington state’s sentencing guidelines was generally informed by the philosophies of retribution and incapacitation.

Dr. Knoth then shared information about how each philosophy might inform the policies related to multipliers and related research:

- Rehabilitative and Restorative: Offense-specific multipliers to determine CHS are not grounded in these philosophies of punishment.
- Deterrence: Could apply; however, no current evidence demonstrates multipliers as an effective deterrent. Using multipliers to calculate a CHS is complex, even for professionals within the court system, so unlikely individuals contemplating a crime would reflect on how their conviction history could influence possible future sentencing.
- Incapacitation: Primary vein of this philosophy is that past behavior is a predictor of future behavior, that individuals who have committed violent offenses may be more likely to recommit and should be incapacitated for longer to reduce that risk. Criminal history score has a quantitative and a qualitative element. Quantitative: reflection of actual number of prior offenses; Qualitative: the kinds of offenses. Multipliers reflect the qualitative element of a criminal history score—individuals who have specialized in committing the same offense pose a greater risk should be incapacitated for longer than individuals with a generalized conviction history. Decades of research suggest that generalization is more common, and that specialization is more common among less frequent offending populations. Evidence suggests greater risk of recidivism among generalists, rather than specialists member expressed interest in reviewing those reports and additional research on recidivism. Lauren Knoth invited members to reach out to her, either directly or through the facilitation team, if interested in additional information.
- Retribution: Individuals who have repeatedly committed the same crimes are deserving of more serious punishments—this is a value-based policy question of what individuals deserve. Absent a deterrent effect or indicator of risk, offense-specific multipliers are most likely informed by retribution perspective.

POTENTIAL RECOMMENDATIONS FROM GRID SUBGROUP & DISCUSSION

Amanda reminded the Task Force members and alternates that the Grid Subgroup has continued to meet weekly to discuss and explore potential recommendations for the horizontal axis of the sentencing grid. The group is sharing potential recommendations for input and guidance from the diverse perspectives represented on the Task Force (see [presentation starting at slide 32](#)). Thoughts shared today will help inform the work of the Grid Group in the coming weeks. Amanda also reminded the group that the recommendations on the horizontal axis build on the discussions and potential recommendations on the vertical axis—so the group is working from is the potential simulated grid, rather than the current ([Detailed Guide to Potential Recommendations](#) available online).

Proposed Recommendation:

Eliminate the offense-specific multipliers from the criminal history score calculation.

and

Create a new column on the grid for repeat violent offending that increases the maximum of the standard sentencing range if the individual has convictions for a previous violent or serious violent offense.

Grid Subgroup Discussion: recognizing that retributive sanctions may be justified for individuals who have committed repeat violent offenses, this recommendation maintains the ability to increase sanctions for repeat violent offenses while eliminating a significant source of complexity, inefficiency and error.

The presentation also included visuals of the simulated potential grid with a proposed repeat violent column, based on either a fixed number of months or percent increase of the maximum (slides 34 & 35 for more detail). This repeat column would be graduated based on seriousness level—these number are not final and could be part of a later discussion.

Column could be based on a percentage increase or a set number of months by OSL. Graduated by OSL (exact values could change)																						
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																						
	0	1	2	3	4	5	6	7	8	9+	Repeat Violent	Repeat Violent										
18																						
17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	25%	60 mos
16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	20%	48 mos
15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	20%	48 mos
14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	15%	36 mos
13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	15%	36 mos
12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	15%	24 mos
11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	15%	24 mos
10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	15%	12 mos
9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	92	108	10%	12 mos
8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	10%	12 mos
7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	10%	12 mos
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	10%	12 mos
5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	10%	6 mos
4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	10%	6 mos
3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	10%	6 mos
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	10%	6 mos
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	10%	6 mos
Unr	0 - 365 days																					

	0	1	2	3	4	5	6	7	8	9+	Repeat Violent																				
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																														
17	240	320	380	252	336	396	264	352	412	277	370	430	291	388	448	306	408	468	321	428	488	337	450	510	354	472	532	372	496	556	60
16	104	138	186	114	152	200	126	168	216	138	184	232	152	203	251	167	223	271	184	246	294	203	270	318	223	297	345	297	397	445	48
15	93	124	172	102	137	185	113	150	198	124	165	213	136	182	230	150	200	248	165	220	268	182	242	290	200	267	315	267	356	404	48
14	82	110	146	90	121	157	100	133	169	110	146	182	121	161	197	133	177	213	146	195	231	161	214	250	177	236	272	236	315	351	36
13	71	95	131	79	105	141	87	116	152	95	127	163	105	140	176	115	154	190	127	169	205	140	186	222	154	205	241	205	274	310	36
12	61	81	105	67	89	113	74	98	122	81	108	132	89	119	143	98	131	155	108	144	168	119	158	182	131	174	198	174	233	257	24
11	50	67	91	55	73	97	60	81	105	67	89	113	73	98	122	81	108	132	89	119	143	98	130	154	108	144	168	144	192	216	24
10	39	52	64	43	58	70	47	63	75	52	70	82	58	77	89	63	85	97	70	93	105	77	102	114	84	113	125	113	151	163	12
9	16	21	33	19	25	37	23	31	43	27	37	49	33	44	56	40	53	65	48	64	76	58	77	89	69	92	104	81	108	120	12
8	14	19	31	17	22	34	20	27	39	24	32	44	29	39	51	35	47	59	42	56	68	51	68	80	61	81	93	71	95	107	12
7	12	16	28	14	19	31	17	23	35	21	28	40	25	34	46	30	40	52	36	48	60	44	58	70	52	70	82	61	82	94	12
6	10	13	25	12	16	28	14	19	31	17	23	35	21	28	40	25	34	46	30	41	53	37	49	61	44	59	71	51	69	81	12
5	3	10	16	3	12	18	4	15	21	5	18	24	6	22	28	8	26	32	9	32	38	11	38	44	13	46	52	16	54	60	6
4	2	9	15	3	10	16	3	12	18	4	15	21	5	18	24	6	22	28	8	26	32	9	32	38	11	38	44	13	45	51	6
3	2	7	13	2	8	14	3	10	16	3	12	18	4	14	20	5	17	23	6	21	27	7	25	31	9	30	36	10	36	42	6
2	0	3	9	1	6	12	2	7	13	2	8	14	3	10	16	3	12	18	4	14	20	5	17	23	6	21	27	8	27	33	6
1	0	2	8	0	3	9	1	5	11	1	6	12	2	7	13	2	8	14	3	10	16	3	12	18	4	14	20	5	18	24	6
Unr	0 - 365 days																														

After some discussion the grid group expressed more interest in a column that would increase the maximum of the range by a set number of months. In the image above, black reflects the minimum, which remains the same; the standard maximum is gray; and the new, expanded maximum is in red—

functionally the sentencing range for an individual facing a current violent conviction with a prior violent conviction would range from the number in black to the number in red.

TASK FORCE DISCUSSION ON POTENTIAL RECOMMENDATION IN SENTENCING SCENARIOS

After providing an overview of how the sentencing grid could look with a repeat violent column, Dr. Knoth described how criminal history score would be calculated using the sentencing scenarios under the current system which Clela presented earlier in the meeting. She presented scoring examples on burglary 1st degree, Assault of a Child 2, and Manslaughter first degree, focusing on the burglary and manslaughter.

Members and alternates asked questions and shared ideas regarding the potential recommendation and how it would apply in those different sentencing scenarios. Those simulations are presented, with an explanation, followed by discussion.

Simulations – using simulated grid												
Scoring example 2 – Burglary 1 st degree (OSL 7)												
Standard CHS scoring (no multipliers) – CHS = 6; Sentencing Range = 36-48 months												
With multipliers (Status Quo) – CHS = 10; Sentencing range = 61-82 months												
	0	1	2	3	4	5	6	7	8	9+		
7	12	16	14	19	17	23	21	28	25	34	30	40
							36	48	44	58	52	70
											61	82
Proposed RV Column Recommendation												
No multipliers (standard scoring only) CHS = 6; Sentencing range = 36-60 months												
	0	1	2	3	4	5	6	7	8	9+	Repeat vio.	
7	12	16	28	14	19	31	17	23	35	21	28	40
							36	48	60	44	58	70
											82	94
												12 mos

Scoring example 2 – Burglary 1st Degree: The image above compares a current CHS scoring – standard and multipliers – and how those sentence ranges could change with the proposed RV column. In this example, the RV column would result in a lower possible sentence, but eliminate complexity of calculating an offense specific criminal history score.

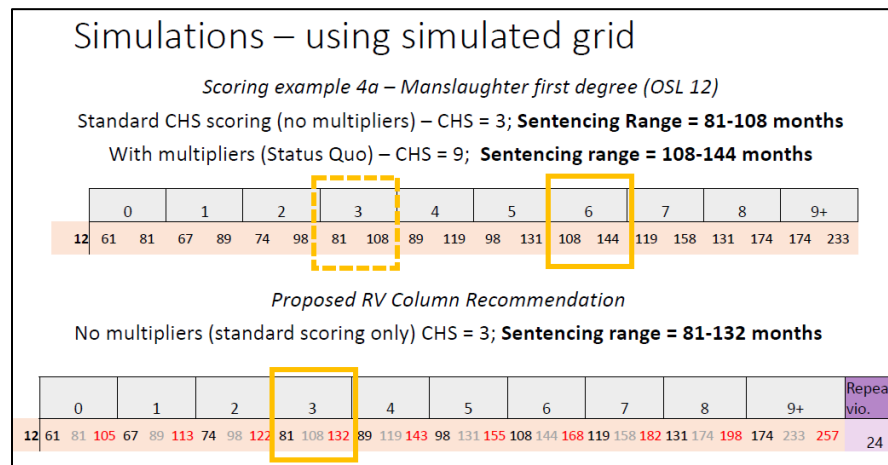
Simulations – using simulated grid												
Scoring example 3 – Assault of a Child 2 nd Degree (OSL 9)												
Standard CHS scoring (no multipliers) – CHS = 6; Sentencing Range = 36-48 months												
With multipliers (Status Quo) – CHS = 9; Sentencing range = 61-82 months												
	0	1	2	3	4	5	6	7	8	9+		
9	16	21	19	25	23	31	27	37	33	44	40	53
							48	64	58	77	69	92
											81	108
Proposed RV Column Recommendation												
No multipliers (standard scoring only) CHS = 6; Sentencing range = 48-76 months												
	0	1	2	3	4	5	6	7	8	9+	Repeat vio.	
9	16	21	33	19	25	37	23	31	43	27	37	49
							48	64	76	58	77	89
											104	120
												12

Scoring Example 3 – Assault of a Child 2nd Degree

- For the new proposed CHS 6 column, could the judge sentence anywhere from 36-60 months?
 - That's correct, instead of a standard range of 36 to 48 months, the presumptive range would now be 36-60 months. A judge could still depart upward above that range with an exceptional aggravated sentence.
- Thinking back to conversations about judges usually using the middle of the standard range--with an expanded range because of the repeat column, would judges continue to sentence at the mid-point? How likely are judges to consider issuing a sentence at the top of the standard range?
 - In this case, the court would know the maximum of the range is increasing because of the criminal history score, so judges may be more likely to use that information to sentence towards the higher end if justified.
- Most of the time a judge does not sentence at the top end of the range. Several members observed that the vast majority of criminal sentences are issued after a guilty plea, not a trial, so sentence presented to the judge for consideration has been negotiated. Negotiations between lawyers would be influenced by the applicable sentencing range.
- What happens if someone has multiple repeat violent offenses? Would the maximum of the range still increase by 12 months, for example?
 - There is room for discussion by the Task Force—would the group want to have the maximum increase by 12 months per prior. But, this would still interact with other current state sentencing laws like the “Three Strikes” law.
- What about Robbery 2, which is no longer a strike offense but is a violent offense?
 - If have two individuals with a quantitative CHS of 6, a person with one Robbery 2, the other with two Robbery 2s: under this scenario, the maximum of the sentencing range would increase by 12 months for both individuals. Task Force could consider alteration where it could be a 12 month increase per repeat violent offense.
 - Motivating factor for the grid group in developing this recommendation is the research demonstrating lack of correlation between multipliers to anything other than retribution. See eliminating multipliers as a way to simplify the system. Expressed concern that increasing the maximum per violent offense would perpetuate the retributive approach.
 - With the proposed recommendation, criminal history score will increase in correlation with prior convictions, and provides an additional layer of culpability that may be appropriate in some circumstances—individuals with more prior convictions will have a higher criminal history score and, depending on current case, could receive a sentence within a higher range.
- Under this potential recommendation, where an individual falls along CHS would ultimately be based on their number of prior offenses. Currently, CHS is not just based on the number of priors, but also depends on the specific prior and current convictions.
- With this potential recommendation, CHS is based on the number of prior convictions, and in instances where the current offense was a repeat violent, the court could consider a sentencing range with an increased maximum—is that accurate?

- Correct. Currently individuals with a CHS of 6 could have different numbers of prior convictions. This recommendation would make the increases in CHS more directly correspond with number of prior convictions and provide space for a qualitative consideration of whether an increased punishment is justified due to the nature of the current offense and priors.
- A member noted that in stances of particularly egregious conduct, this potential recommendation does not limit the use of aggravators or exceptional sentences.
 - Defendants don't have incentive to enter a plea agreement to an aggregator, so would be a rare scenario—unless there was also a significant reduction in the charge.
 - Grid group discussed how judges and prosecutors would likely consider an individuals qualitative conviction history, ie past violent convictions, in making sentencing recommendations—either within the standard range or in the expanded repeat violent range.
- Expressed concern that plea negotiations would not specify where in the expanded range is appropriate and that the judge would have a broad range of discretion to issues a sentence.
- Expressed concern about grouping prosecutors and judges—they have very different roles.
- Is the potential recommendation operating similar to an enhancement that's discretionary to the court?
 - It is an expansion of the standard range. The judge has discretion to issue a sentence within a wider range, in this example—a maximum increased by 12 months, without additional findings or proof. The sentencing range would be different, by virtue of someones prior conviction history?
 - Yes, instead of range of 48-64 months, sentencing range would be 48-76 months—even if lawyers have a recommendation of 64 months, a judge could issue a higher sentence if appropriate.
 - This potential recommendation provides judges the discretion to consider unique circumstances of a case, rather than be constrained by multipliers.
- Would the repeat violent column be based on number of months or could it be based on something different, such as a percentage?
 - The grid group had more alignment on using a set number of months. Using a percentage approach would add additional complexity.
- As we try to simplify the grid, also thinking about the inherent biases built into the system—having an expanded sentencing range provides more discretion for the courts, but uncertain about how it addresses disparity and biases that could lead to different sentencing outcomes county by county. Expressed interest in how that conversation assist in developing the final recommendations.
 - This approach doesn't specifically address issue of racial bias in the system. The goal of this potential recommendation is to address complexity and an area that leads to errors, and therefore would improve the effectiveness of the system.
 - One idea would be to create greater transparency by publishing numbers of what courts are doing and to whom—for example, what are the sentences, lengths and

- demographics. We should create a mechanism to review the system every 2 or 3 years to ensure an ongoing conversation about implicit bias and disproportionality.
- Also recognize other factors that may exacerbate recidivism, such as lack of affordable housing, employment, and reentry supports.
 - In addition to collecting information about demographics of individuals being sentenced, expressed support about gathering information regarding victims and victim identity, since that can also affect perceptions of credibility, how they should be protected, as well as the appropriate sentence for the defendant.
 - Currently people of color are more likely to have a history of prior violent convictions which leads to an increased CHS because of those specific past offenses. This potential recommendation to mitigate some of that bias because judge has discretion to consider whether the sentence should fall within the standard range or within the expanded range. This recommendation also provides a structure for reviewing those decisions.



Scoring example 4a – Manslaughter first degree: takeaways from this example

- Building on prior potential recommendations, this offense moves from OSL 11 to 12
- Status quo: An individual facing a current manslaughter in the first degree with 3 prior convictions would have a CHS of 3 and a potential sentence of 81-108 months. With multipliers and a prior serious violent conviction, that sentencing range would be 108-144 months.
- Potential recommendation: the individual with 3 past prior convictions, including a past serious violent, would face a potential sentence range of 81 to 132 months. In this example, the expanded range does overlap with the sentencing range with multipliers. As move up the grid—through increased OSL and CHS—this potential recommendation maintains the approach and underlying philosophies of the sentencing guidelines where there's greater retribution with higher seriousness levels.

Dr. Knoth then provided a brief overview of how the potential recommendation would meet the three policy goals of the Task Force, as well as reduce disparity and disproportionality.

How potential recommendation meets policy goals:

Reducing complexities and errors:

- Multipliers happen in the background and have complex rules that are not always known,

- Applying a new column consistently regardless of offense reduces complexity and potential for errors,
- Applying a new column increases transparency and makes it clearer that an individual's sentence was higher or eligible to be higher as a result of types of offenses in criminal history.

Improving the effectiveness of the sentencing system:

- Multipliers increase discretion of the legislature and reduce the discretion of judges, prosecution, and defense. Recommendation creates more balanced discretion.
- Increasing the maximum allows for similar outcomes as today, e.g. increased punishment for repeat offenses/retributive sanctions, but also allows for more consideration of cases that may not need increased sanctions
- More individualized sanctions.

Promoting and improving public safety:

- Recommendation maintains the ability to issue more serious sanctions for more serious individuals/cases
- in particularly egregious cases, aggravating factors are likely to apply.
- Many violent and serious violent offenses will also have enhancements which still apply
- Given the lack of evidence that specialization is a signal for increased risk, there is no evidence that increased incapacitation is necessary to maintain public safety for repeat offenses vs. generalists.

While not specifically a policy goal, the Task Force has also discussed the importance of reducing racial disproportionately and disparity. Some ways this potential recommendation could meet that goal:

- Initial evidence from OFM suggests there is racial disproportionality in the application of multipliers which creates disproportionality in sentences
- Increasing the maximum still allows for increased sentences when warranted, but allows defense to argue that increased sanctions are not justified given considerations of an individuals specific criminal history
- Allows for more clear understanding of potential disparity by being able to compare cases where the sentence was increased due to the type of offenses in a persons criminal history. In status quo, there is significant heterogeneity in the meaning of different peoples criminal history scores.

TASK FORCE DISCUSSION on POTENTIAL RECOMMENDATION and ALL SCENARIOS:

- Expressed support for simplification, for making a sentence and the intent of the court easier to understand by all parties, including defendant, Dept. of Corrections.
- Expressed concerns about dramatically reducing sentences for some fairly violent crimes.
- How did the numbers in the repeat violent column get created? Is there still opportunity to discuss them?

Simulating ranges based on set month approach.

	0	1	2	3	4	5	6	7	8	9+	Repeat Violent																				
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																														
17	240	320	380	252	336	396	264	352	412	277	370	430	291	388	448	306	408	468	321	428	488	337	450	510	354	472	532	372	496	556	60
16	104	138	186	114	152	200	126	168	216	138	184	232	152	203	251	167	223	271	184	246	294	203	270	318	223	297	345	297	397	445	48
15	93	124	172	102	137	185	113	150	198	124	165	213	136	182	230	150	200	248	165	220	268	182	242	290	200	267	315	267	356	404	48
14	82	110	146	90	121	157	100	133	169	110	146	182	121	161	197	133	177	213	146	195	231	161	214	250	177	236	272	236	315	351	36
13	71	95	131	79	105	141	87	116	152	95	127	163	105	140	176	115	154	190	127	169	205	140	186	222	154	205	241	205	274	310	36
12	61	81	105	67	89	113	74	98	122	81	108	132	89	119	143	98	131	155	108	144	168	119	158	182	131	174	198	174	233	257	24
11	50	67	91	55	73	97	60	81	105	67	89	113	73	98	122	81	108	132	89	119	143	98	130	154	108	144	168	144	192	216	24
10	39	52	64	43	58	70	47	63	75	52	70	82	58	77	89	63	85	97	70	93	105	77	102	114	84	113	125	113	151	163	12
9	16	21	33	19	25	37	23	31	43	27	37	49	33	44	56	40	53	65	48	64	76	58	77	89	69	92	104	81	108	120	12
8	14	19	31	17	22	34	20	27	39	24	32	44	29	39	51	35	47	59	42	56	68	51	68	80	61	81	93	71	95	107	12
7	12	16	28	14	19	31	17	23	35	21	28	40	25	34	46	30	40	52	36	48	60	44	58	70	52	70	82	61	82	94	12
6	10	13	25	12	16	28	14	19	31	17	23	35	21	28	40	25	34	46	30	41	53	37	49	61	44	59	71	51	69	81	12
5	3	10	16	3	12	18	4	15	21	5	18	24	6	22	28	8	26	32	9	32	38	11	38	44	13	46	52	16	54	60	6
4	2	9	15	3	10	16	3	12	18	4	15	21	5	18	24	6	22	28	8	26	32	9	32	38	11	38	44	13	45	51	6
3	2	7	13	2	8	14	3	10	16	3	12	18	4	14	20	5	17	23	6	21	27	7	25	31	9	30	36	10	36	42	6
2	0	3	9	1	6	12	2	7	13	2	8	14	3	10	16	3	12	18	4	14	20	5	17	23	6	21	27	8	27	33	6
1	0	2	8	0	3	9	1	5	11	1	6	12	2	7	13	2	8	14	3	10	16	3	12	18	4	14	20	5	18	24	6
Unr	0 - 365 days																														

- In the repeat violent column, the 6 and 12 related to statutory maximum policies to ensure that the maximum on the expanded range does not exceed the statutory maximum. In 2021, the Task Force decided to move forward developing a grid with anchor points at OSL 5, CHS 9+ and OSL 9, CHS 9+, below their respective statutory maximums so that judges could issue an exceptional sentence or use aggravators when applicable.
- In the higher OSLs-under the multiplier approach an individual from moving from a CHS of 4 to 7, due to their specific past prior convictions, and a potential minimum that increased by 40 months and potential maximum by about 60 months. The numbers currently in the repeat violent column reflect about the same increase as under the multiplier approach. Higher numbers in this could lead to a situation that greatly surpasses the current effect of multipliers.
 - This is an area that the grid group is not in alignment and if you have other numbers you would like to see, please share with the grid group.
- Much of the discussion today has been about providing opportunity for more judicial discretion, also wondering about level of interest among judges in having more discretion, as well as thinking about how current grid was created to reduce disparate outcomes in sentencing.
 - Appreciate the historical context in terms of broad judicial discretion and changes that have occurred over the years. The current grid provides bounds, or limits, for judicial discretion. I struggle with a system where overwhelming majority of the sentencing recommendations are negotiated, and there's an expectation that the judge will then affirm that recommendation. The court does frequently give deference to the parties—however, this raises the question: what is the role of a judge? And what do we expect judges to do? Judges exist for many reasons, one of which is that the judge is the entity in the system to assign the appropriate response—punishment, rehabilitation. Judges want the discretion in order to fulfill that purpose. Also believe in transparent decision-making so that people can be held accountable.

- The SRA came about, in part, because of incredible sentencing disparity and ultimately sentence lengths were determined by the parole board, in a decision-making process that was not transparent. The grid provides boundaries, but still offers some judicial discretion..
- About retroactivity, if we decide that the system has been unfair for the past 40 years, then we should undo that as best we can. We know there is a cost, but I think we have an obligation to undo the harm.

ADJOURN

2022 MEETING SCHEDULE

Starting in April, meeting times reflect possible in-person, all-day meetings

March 3, 1 pm – 4:30 pm

April 7, 9 am – 4:30 pm

May 5, 9 am – 4:30 pm

June 2, 9 am – 4:30 pm

PUBLIC ATTENDEES: Megan Allen, Jim Chambers, Anevay Gawryk, Carolyn Gray, Cynthia Holliman, Caylin Jensen, Katelyn Kelley, Gideon Newmark, Sydney Oliver, Barbara Serrano, Joanne Smieja, Loren Taylor, David Triewailer

PUBLIC QUESTIONS AND COMMENTS: *Below are summaries of comments and questions shared by public attendees and any responses from Task Force members and alternates. Full questions/comments and responses can be viewed by [following this link to TVW which starts at 03:02:55](#) in the meeting recording.*

David Triewailer: Shared perspective regarding retribution as factor contributing to increased sentence lengths over the past 40 years—could Task Force provide perspective about how retribution required sentence lengths for violent crimes to double?

- A member shared their perspective that the system operates under the premise that more incarceration changes behavior; however, outcomes are showing that violent crimes are going down yet prison populations increase—it's just hard to adopt a new behavior modification model.

Joanne Smieja: want to thank the Task Force for their work. Would be excited if you went with this model, much more transparent—especially support using simplified approach to determining criminal history score (using number of previous convictions and eliminating multipliers).

Jim Chambers: Expressed concern about the Task Force limiting their recommendations to what is politically feasible—encourage the group to pursue the great ideas about what needs to happen with the sentencing system. Shared personal story about how a prior possession of marijuana charge contributed to triple scoring and a 40-year drug sentence, despite no prior time served in prison. Expressed support for eliminating multipliers, as well as use of misdemeanors in calculating a criminal history score. Also encouraged the Task Force to consider modifications to wash outs.

- Task Force member responded that Jim was sentenced at the height of the war on drugs—that our culture is changing and that the laws should reflect the change in culture. Changes to the sentencing system are a political process, so change depends on those serving in the Legislature and their willingness to take the risk to change the laws. Expressed belief that now is the right moment to enact a more fair and workable system.

Megan Allen: Encouraged Task Force to consider perspective of victims, particularly in sexual assault cases, while discussing retroactivity. Many sentences in sexual assault cases are the result of a plea agreement, which is an agreement that includes the survivor and the outcome of their case—expressed concern about the harm that could be further caused to victims when that agreement is changed, especially for those most vulnerable. Shared a story about work as a sexual assault advocate and the challenges of contacting survivors regarding appeals, etc years later—often no ability to contact those individuals, no opportunity for them to engage in the appeals process or even receive notification that an individual will be released earlier than anticipated. Recognized that a plea agreement may not be reflective of original charges or full extent of history of abuse, that incarceration isn't necessarily the answer for accountability. Shared perspective that victims and victim community would have concerns with recommendations to reduce incarceration without also building appropriate and robust treatment and intervention programs that would also be available to victims.

PUBLIC INPUT SHARED VIA CHAT: No questions/comments submitted.

APPENDIX I – CSTF MEMBERS/ALTERNATES ATTENDANCE, February 3, 2022

CSTF Members & Designated Alternates	Affiliation/Perspective Represented	Attendance:
Jon Tunheim	Washington Association of Prosecuting Attorneys	✓
Russell Brown (alternate)		
	Statewide Reentry Council	
Rep. Roger Goodman	Washington State House of Representatives	✓
Sen. Chris Gildon	Washington State Senate	Unable to attend
Sen. Manka Dhingra	Washington State Senate	Unable to attend
Rep. Carolyn Eslick	Washington State House of Representatives	✓
Barbara Serrano	Washington State Office of the Governor	✓
Elaine Deschamps	Washington State Caseload Forecast Council (technical support)	Unable to attend
(Clela Steelhammer)		✓
Julie Martin	Washington State Department of Corrections	✓
(Mac Pevey)		Unable to attend
Judge Wesley Saint Clair	Washington State Sentencing Guidelines Commission	
(Keri-Anne Jetzer)		✓
Suzanne Cook	Statewide Family Council	Unable to attend
(Melody Simle)		✓
Judge Josephine Wiggs-Martin	Superior Court Judges' Association	✓
Gregory Link	Washington Association of Criminal Defense Attorneys; Washington Defender Association	✓
(Kim Gordon)		Unable to attend
Chief Gregory Cobb	Washington Association of Sheriffs and Police Chiefs	✓
(Chief Brian Smith)		✓
Councilmember Derek Young	Washington State Association of Counties	✓
Judge Veronica Alicea-Galván	Washington State Minority and Justice Commission	Unable to attend
(Frank Thomas)		Unable to attend

APPENDIX I – CSTF MEMBERS/ALTERNATES ATTENDANCE, February 3, 2022

Chief James Schrimsher	Fraternal Order of Police, Labor Organization Representing Active Law Enforcement Officers in Washington State	✓
Nick Allen	Columbia Legal Services, Representing Interests of Incarcerated Persons	✓
(Nick Straley)	Columbia Legal Services, Representing Interests of Incarcerated Persons	✓
Waldo Waldron-Ramsey	Washington Community Action Network, Representing Interests of Incarcerated Persons	✓
(Ginny Parham)	Washington Community Action Network, Representing Interests of Incarcerated Persons	✓
Tiffany Attrill	King County Prosecutor's Office, Representing Interests of Crime Victims	✓
Riddhi Mukhopadhyay	Sexual Violence Law Center, Representing Interests of Crime Victims	✓
