

Washington State Criminal Sentencing Task Force
Meeting Summary: February 24, 2023
In person: 1500 Jefferson St SE, Olympia, WA 98501
Virtual: ZOOM – [Link to TVW](#)

ATTENDEES:

Task Force Members and Alternates: See Appendix A

Members of the Public: *See pg. 7*

Facilitation Team: Amanda Murphy, Chris Page, Molly Stenovec, Alec Solemslie, Zack Cefalu – Ruckelshaus Center

Research/Technical Support: Dr. Lauren Knoth-Peterson, *Washington State Institute for Public Policy (WSIPP)*

MEETING GOALS:

- Task Force introductions and updates.
- Receive an update from Legislative members regarding the session and legislation related to Task Force recommendations from both the 2020 and the 2022 report.
- Reflect as a group on the work of the Task Force and discuss actionable next steps needed to ensure the work is built upon and recommendations carry into the future.
- To show appreciation for one another for the time and talent dedicated, and to officially conclude the Task Force.

WELCOME AND AGENDA REVIEW:

Amanda and Chris welcomed Task Force members and alternates and reviewed the agenda for the meeting. The first agenda item will be receiving a legislative update from Task Force legislative members. This is to be an overview/update on the work in the legislative session related to Task Force recommendations since 2020. The Task Force will then reflect on the work they have done over the past three years as well as the focus on potential future action that is needed to tend to the body of work.

INTRODUCTIONS:

The Facilitation team asked Task Force members and alternates to introduce themselves, as well as respond to the following question: *“What have you valued most about being a member of this Task Force?”*

Summary of responses includes:

- Seeing all the different perspectives represented in this Task Force and the level of discussion this created highlighted the need to expand the SGC to include a more diverse array of perspectives

- The value has been the level of robust conversations that have been had here over the years with many different perspectives, as this helps me frame my own opinions and thoughts. There has also been great value in the relationships I have built here.
- Always honored with the opportunity to give voice for sexual violence victims. This Task Force has given me the opportunity to grow and learn how each part of the system has an impact on all stakeholders—recognize how improving experiences for victims will require changes throughout the entire system.
- It's been a great pleasure to participate in this body of work which has informed policy changes and legislative proposals. Appreciate the conversation among diverse perspectives -- this is the way to make policy that can best serve all stakeholders.
- Have valued the diverse perspectives, of the education and information-sharing. Appreciate the dedication of the research team in answering questions and sharing information.
- Valued the many different perspectives and the opportunity to participate. Hope to see more engagement with individuals currently incarcerated in future such efforts.
- The value was being educated from all our research staff who supported us along the way.
- Appreciated the opportunity to review the research in the context of the discussions and that everyone here valued the research being presented.
- The opportunity to discuss the sentencing system's issues that have not been discussed for this length of time with such a broad group of people.
- Appreciated getting to know everyone, the deep discussions have been very educational and illuminating, and the level of effort and integrity that everyone brought to this process. Hope that there will be movement and leadership from the Legislature.
- Valued the discourse and disagreement which allowed for better understanding of perspectives, also value the relationships and conversations that will continue.
- Value everyone's commitment and dedication to represent their stakeholders and perspectives
- Being able to advocate for individuals who are currently individuals.
- Has been an extraordinary experience. Grateful to have learned from and worked with this group.
- Value the participation and engagement of institutions in lengthy robust conversations over the years, and a commitment to maintaining working relationships moving forward.
- Change occurs very slowly within institutions and takes years. This process has been a very critical element in building relationships and understanding of different perspectives and concerns. Appreciated being part of the conversation and looking forward to being part of the conversation moving forward.

The facilitation team provided an overview of the lifetime process of the project. At the creation of the Washington State Criminal Sentencing Task Force, the facilitation team began an assessment with members on how the process should be run. The facilitation team initiated a midpoint assessment to discuss how the process was working and any feedback that was available. The facilitation team will also conduct a final closing assessment, to provide members

and alternates an opportunity to reflect on the process of the Task Force as well as any feedback. The facilitation team will be contacting all the members of the Task Force.

LEGISLATIVE UPDATE

In 2021 and 2022, the legislation related to any Task Force recommendations was not prioritized due Legislature's need to respond to both the pandemic and as well as the [Blake](#) decision. Responding to the Blake decision encompassed all the work in any passage of criminal justice legislation over the last few sessions. In this 2023 session however, there are bills that are very much alive still and related to the work of the Task Force, these are as follows:

[SHB 1189](#) - Concerning the release of incarcerated individuals from total confinement prior to the expiration of a sentence.

- Expands and modifies the membership of the Clemency and Pardons Board (CPB).
- Establishes a process for qualifying persons to petition the CPB for conditional commutations.
- Requires the CPB to recommend to the Governor that conditional commutations be granted in certain circumstances.
- Authorizes the Department of Corrections (DOC) to supervise persons granted conditional commutations.
- Expands the eligibility criteria and modifies electronic monitoring requirements for persons granted extraordinary medical placement by the DOC.

[HB 1268](#)– Concerning sentencing enhancements.

- Eliminates the sentencing enhancements for involving a minor in a criminal street gang-related felony and for certain controlled substance violations committed in protected zones.
- Removes the requirement that a court order multiple firearm or deadly weapons enhancement to be served consecutively.
- Removes the restrictions on partial confinement and earned early release for all sentencing enhancements.

[HB 1324](#)– Concerning the scoring of prior juvenile offenses in sentencing range calculations.

- Excludes juvenile dispositions from offender score calculations, subject to an exception for prior juvenile sex offenses.
- Requires courts, until July 1, 2025, to grant a resentencing hearing upon the motion of a person whose sentence was increased by the inclusion of prior juvenile dispositions in the person's offender score calculation.

[HB 1396](#) – Concerning persons sentenced for aggravated first degree murder committed prior to reaching 21 years of age.

- Eliminates the provision authorizing the sentence of life imprisonment without parole for Aggravated Murder in the first degree where the perpetrator committed the crime at age 16 to 17.

- Requires the sentencing court to impose a maximum term of life imprisonment and a minimum term of total confinement of 25 years for Aggravated Murder in the first degree where the perpetrator committed the crime at age 16 to 17.
- Requires the sentencing court to impose a maximum term of life imprisonment and a minimum term of total confinement of no less than 25 years for Aggravated Murder in the first degree where the perpetrator committed the crime at age 18 to 20 if the court determines that certain mitigating factors justify a downward departure, and requires the sentencing court to instead impose life imprisonment without parole if the court determines that such factors do not justify a downward departure.
- Requires resentencing for persons currently serving a sentence of life imprisonment without parole for an offense committed at age 18 to 20.

[HB 1169](#) – concerning legal financial obligations

- Eliminates the crime victim penalty assessment and establishes alternative state funding for crime victim and witness programs.
- Eliminates the DNA database fee and establishes alternative state funding for the DNA database and DNA collection costs.
- Requires a court, upon motion of an offender, to waive a previously imposed crime victim penalty assessment or DNA database fee.

[HB 1108](#) – resentencing of individuals classified as persistent offender

Other Potential Future Legislation and Activities:

- On DOSA eligibility
- Rep. Goodman has been working on a draft bill related to a new sentencing guidelines grid and anticipates dropping it soon. He envisions appointing an entity, likely the SGC, to re-rank where offenses lay within the newly proposed grid and that the grid bill will then be re-introduced in the 2024 session to be amended and hopefully passed in 2024.
- Proposal for local intermediate sanctions, pending more background work
- Representatives from DOC and the Administrative Office of the Courts willing to have conversations about improving judgement and sentencing forms
- Addressing tolling on community custody

Member/Alternate Discussion:

- Tolling of community custody has been an evolving conversation at DOC over the last few years. Perhaps legislation could be brought forward in 2024, if the legislation could simplify without increasing complexity.
- Noted that the Task Force did not engage perspectives of community custody officers, such as Teamsters and the Federation of State Employees.
- Many recommendations from the 2020 report have either already been passed or are current legislation in this session. Sentencing reform has been a large topic of focus in the Legislature for several sessions now and will continue to be for years to come.
- Has there been any work or bills brought up about earned time?

- [HB 1798](#), which is prospective only, and proposes 33% across the board. This will reduce the length of a period of incarceration and decrease fiscal impacts of incarceration, which could then be invested in programs and services.
- Could you provide more information about why HB1798 is prospective only? How would that not increase complexity?
 - This will add some complexity but calculations are coded into a table. DOC has effective dates when those new earned time percentages would be coded in.
 - The bill states, “For any term of confinement set to be completed on or after July 1, 2023” meaning any sentence being served or yet to be served will have their time adjusted at the date of the bill for their entire sentence but not applying the new rule of the bill retroactively into past time served for consecutive sentences or other completed sentences. This will allow for an update of all earned early release time for currently incarcerated individuals.
- The recommendation from this Task Force related to funding in prisons for programming has really resonated with many in the Legislature, with bipartisan support. Rep. Simmons, a former CSTF member, now serves on the Appropriations committee.
- In response to the Blake decision, the Legislature will be providing tens of millions of dollars to local governments for the purposes of behavioral health infrastructure and response, therapeutic courts operations, resentencing, and vacation of records.
- A member had concerns related to the Monschke bill. They felt the conversations in the Task Force was about making clear the distinction of different tiers of sentencing for
 - those aged 17 and under,
 - 18-25 and,
 - 25+.

Such an approach prevents the complexities of having to explain different levels of culpability for those 18-20 years old from those 21+. This would prevent creating three different tiers of sentencing for those 17-25 years old.

- Currently, individuals up to the age of 21 can get the [Miller](#) review, per the Washington State Supreme Court ruling. Separate sentencing systems for those under 18 years old and those 18-20 seems complex. Suggestion for a policy where the ISRB conduct a review at 25 years of time served for Aggravated Murder anyone aged 16-20 at the time of conviction could get a review.
- Recall discussion surrounding Recommendation #16 from 2022, which most people supported. The diverging perspectives was about what length of time should be served, not whether or not this is indeterminate sentencing or not. The bill should reflect the work of the Task Force.

REFLECTIONS AND FUTURE WORK

The facilitation team shared an overview of the Task Force process and milestones and accomplishments since its creation in 2019. This Task Force was the first body in the country to conduct a holistic and systematic review of a state’s sentencing system in a collaborative and consensus-seeking process. The Task Force spent 3 years gathering research and information, having conversations and exploring options, which informed the development of recommendations and reports. While some of those recommendations have informed

legislation, much work still remains ahead. The remainder of the meeting was an opportunity for the Task Force to reflect on the future of the work that needs to be tended.

The facilitation team distributed worksheets with reflection questions and then provided members and alternates to respond. The following paragraphs include the question, followed by summary of member responses and the group conversation during the report out.

Discussion:

List the important things you all achieved as a Task Force whether these are substantive, process-related or relational.

- This was a missed opportunity as we did not sufficiently discuss racial disparities and disproportionalities.
- The consensus recommendations.
- The creation of a proposed formulaic-based sentencing grid.
- Currently plea negotiations center on the length of the potential sentence because that is the only currency of accountability. However, that does not recognize repeat behavior patterns and what the individual may need to support their success. Optimistic that the new grid, the local sanctions options, and implementation of iCOACH supervision will increase sentencing options and effectiveness.
- Valued that everyone shares a desire to reform the justice system, and for improvements and change-- that led to some agreements on recommendations.
- People came to the process with intention to address racial equity
- Group explored all possible scenarios/recommendations and had many important passionate conversations.
- As a member of this Task Force, what I walk away with is the relationships we have built here. This allows us all to be able to reach out to other members in our professional lives. This Task Force forced us to confront challenging topics that required us to reevaluate our values.
- No matter how much the sentencing grid changes, this will never address the upstream factors that are causing individuals to come into contact with the justice system in the first place.
- Every step into the system contributes to racial disproportionalities for both those involved in the system and the victims of crime as well.
- Engagement in weekly, sometimes several times a week, conversations—sometimes we changed minds, sometimes we reaffirmed or clarified our perspectives.

Let's imagine it's 5 years in the future, based on your list, what is the best outcome you can envision for this work of the Task Force?

- Would love to see the Legislature task a group with tackling racial disparities in sentencing.
- Legislation has been passed that incorporates recommendations
- The Legislature needs to draft legislation informed by the recommendations.
- Reducing the number of individuals who cycle through prisons and jails

- More cross-agency discussions between DOC, Legislature, and the courts to increase cross-agency collaboration. There needs to be another workgroup to address the gaps that have appeared in the justice system.
- The passage of a formula-based grid.
- The need to calibrate the sentencing grid to assist victims, as the SW corner of the grid saw many reductions. People often forget that the SW corner addresses crimes against persons too. We agree to look at this in a racial lens, including racial disproportionality is seen in victims as many victims are people of color. Treatment for sexual violence is important as well, with needed investment and intervention.
- More continuity from the Task Force to the Legislature, it would have been nice to work with them in a more intentional way prior to the legislative session so we can educate them on our recommendations.
- A reduction of recidivism, which includes less victims as well as safer communities.

What needs to happen in order to see this come to fruition in 5 years' time? These should be tangible actionable steps.

- The Legislature needs to draft and pass legislation informed by the consensus recommendations.
- The re-ranking of offenses needs to be done before a new grid can pass as well as adjusting the grid's formulas to find middle-ground between opposing perspectives.
- Expanding judicial discretion in the SW corner, implementing i-COACH, and adding supervision.
- People need to be tasked with this work and provide both funding and treatment, to build programming and support as well as whatever supervision is needed to ensure successful reintegration that limits recidivism.
- Look at all recommendations and put forward draft legislation on as many recommendations as possible and then secure sufficient funding for new programs.
- Racial equity needs to be addressed in Washington's criminal legal system. Not just in terms of access to the programming, also need housing and jobs. The intentions in recommendations and bills are good but have not produced any action, the state needs to be actionable.
- Washington's sentencing system needs to be continually worked on, not subject to a massive overhaul every 25-30 years. SGC is well-positioned to provide that oversight but needs more resources and stronger relationship with the Legislature, so legislative action better reflects the technical and diverse expertise on the SGC.
- The state requires upstream reforms. The criminal justice system is the place of last resort where if there is no solution to an issue, it is handed off to the law enforcement and the courts. It would be great if the criminal justice system becomes limited in its scope and use through upstream reforms, such as investments in education, early education, housing, workforce training, etc.

What commitments are you prepared to make starting now to ensure that this work moves forward?

- The SGC is willing to do the work of re-ranking offenses as well as providing any research support that is needed.
- whatever is necessary.
- committed to representing the survivor and victim community. Note that such organizations are direct service focused and often don't have capacity for policy work.
- Continue to educate other legislative members on justice reform.
- keep doing the work to address racial inequity and mass incarceration.
- To be engaged in the conversations.

Several members of the Task Force and research team engaged in a conversation about data on racial disparity. The SGC would like to increase their understanding of racial disparity in order to develop policy recommendations to address racial disparities. A member raised questions about what entities have access to what data. Another member expressed interest for racial equity data that includes victims—noted that data is not often collected. WSIPP has databases to start looking at racial disparity from arrest to sentencing. Some described the work being done by the American Equity & Justice Group, which is working to gather felony sentencing data. Others began talking about how to move forward.

Closing

Amanda reflected on the groups time together—watching how collective problem solving and relationships have evolved over time. In this meeting, there was a back and forth – to clarify the data, who has what, is looking at what – that didn't exist at the beginning of the Task Force. She urged the group to stay in contact with each other to maintain the problem-solving relationships that have been built.

PUBLIC COMMENT:

Below are summaries of comments shared by public attendees. Full comments can be viewed by following this link to TVW which starts at [02:32:47](#) of the meeting recording.

Public Attendees: Jim Chambers, Carolyn Gray, Gideon Newmark, Audrey Koreski, Bruce Glant, David Treiweiler, Whitney Hunt, Roger Rogoff

Jim Chambers: I want to thank everyone who volunteered their time. I noticed how much bias has been built into our system. Building a new grid with old tools will contribute to new forms of racial inequity. Retroactivity is needed for any reforms moving forward otherwise people will be left behind and we will need to go back and repair that harm. Just like we expect people convicted of a crime to be responsible for the harm they have caused, so too should the state be responsible for the harm they have caused.

Kehaulani: I have had the opportunity to sit in on these meetings for 3 years now and I do not feel like these meetings have been productive. I hope no more general funds go to data because money needs to go towards accountability and auditing the system of the harm that

has been caused. It is frustrating to be in these meetings when in 1981 session law was created that was very clear, but since then laws have been layered to trump other laws. DOC is not following laws or being held accountable for the cycle of trauma that affects the incarcerated and the people in their community. I do not hear any action from the Task Force's recommendations that advance its three policy goals. There is no consistency in the J&S forms so why don't we talk with all the counties on how to make these forms consistent? Go talk to the people that live in the life. When discussing improving public safety, why don't you go to the prisons and see how the conditions inside can be improved and hold those in leadership roles accountable to create programming so there isn't a continual cycle of incarceration.

Bruce Glant: There was a lot of hard work done in the SW corner of the grid, I am disappointed there was significantly less done to reform the NE corner of the grid. There was not much discussion related to sex offenses. We consider punitive action for those convicted of sex crimes but these are not always violent predators that they are made out to be. We are dealing with human lives and for many of these people there is no pathway off the legal system as they are often incarcerated for lengthy periods of time followed by lifetime supervision and registration.

CLOSING REMARKS

The Co-Chairs provided some closing remarks. Representative Goodman shared that this diverse group was brought together to have in-depth conversations that could clarify issues and opportunities for Legislative activities and policy change. There probably is no other forum in Washington, or in the country, that has had this level of conversation about the criminal legal system. This work was intended to be the beginning and this was a great start to the beginning. Jon Tunheim added that the issues in the sentencing system are important – and values based. Reaching consensus on all recommendations was always going to be a challenge. The recommendations that the group developed and considered reflect everyone's dedication to represent their constituencies and their diverse values on these issues. I am grateful for the time everyone spent and the well-meaning, respectful contributions everyone made. This work will inform Legislative activities and policy discussions for the next several years.

APPENDIX A: CSTF MEMBERS/ALTERNATES ATTENDANCE – February 23, 2023

CSTF Members & Designated Alternates	Affiliation/Perspective Represented	Attendance
Jon Tunheim, Co-Chair	Washington Association of Prosecuting Attorneys	✓
(Russell Brown)		✓
Rep. Roger Goodman, Co-Chair	Washington State House of Representatives, Democratic Caucus	✓
Waldo Waldron-Ramsey, Co-Chair	Washington Community Action Network, Representing Interests of Incarcerated Persons	✓
(Ginny Parham)		
Sen. Chris Gildon	Washington State Senate, Republican Caucus	
Sen. Manka Dhingra	Washington State Senate, Democratic Caucus	
Rep. Carolyn Eslick	Washington State House of Representatives, Republican Caucus	
	Washington State Office of the Governor	
Elaine Deschamps	Washington State Caseload Forecast Council (non- decisional seat)	
(Clela Steelhammer)		✓
Mac Pevey	Washington State Department of Corrections	✓
(Diane Ashlock)		
Judge Wesley Saint Clair	Washington State Sentencing Guidelines Commission	✓
(Keri-Anne Jetzer)		✓
Melody Simle	Statewide Family Council	✓
(Suzanne Gordon)		✓
Francis Adewale (Interim)	Statewide Reentry Council	
Judge Josephine Wiggs	Superior Court Judges' Association	✓
Gregory Link	Washington Association of Criminal Defense Attorneys; Washington Defender Association	✓
(Kim Gordon)		
Chief Gregory Cobb	Washington Association of Sheriffs and Police Chiefs	
(Chief Brian Smith)		
Derek Young	Former councilmember, Washington State Association of Counties	✓
Judge Veronica Galván	Washington State Minority and Justice Commission	
(Frank Thomas)		
Chief James Schrimpscher	Fraternal Order of Police (Labor Organization Representing Active Law Enforcement Officers in Washington State)	
Blaze Vincent	Seattle Clemency Project, Representing Interests of Incarcerated Persons	
(Nick Straley)		✓
Tiffany Attrill	King County, Representing Interests of Crime Victims	
(Kameon Quillen)		
Riddhi Mukhopadhyay	Sexual Violence Law Center, Representing Interests of Crime Victims	
(Megan Allen)		✓