Washington State Criminal Sentencing Task Force
Sentencing Effectiveness Working Group – Grid Subgroup
Meeting Summary: December 8, 2020
Digital Conferencing Technology

Attendees:

- Russ Brown (alt. for Jon Tunheim), *Washington Association of Prosecuting Attorneys*
- Representative Roger Goodman, *Washington State House of Representatives, Democratic Caucus*
- Keri-Anne Jetzer (alt. for Judge Rumbaugh), *Sentencing Guidelines Commission*
- Lauren Knoth (research/data support), *Washington Institute for Public Policy*

- Greg Link, *Washington Association of Criminal Defense Attorneys; Washington Defender Association*
- Judge Stanley Rumbaugh, *Sentencing Guidelines Commission*
- Melody Simle (alt. for Suzanne Cook), *Statewide Family Council*
- Clela Steelhammer (research/data support), *Caseload Forecast Council*
- Nick Straley (alt. for Nick Allen), *Interests of Incarcerated Persons*
- Jon Tunheim, *Washington Association of Prosecuting Attorneys*

Facilitation Team: Amanda Murphy, Chris Page, and Hannah Kennedy

WELCOME & AGENDA REVIEW
Amanda welcomed Grid Subgroup (Subgroup) members and reviewed the agenda. A member inquired about the Task Force's process for reviewing any Legislation based on consensus recommendations. In particular, members want an opportunity to review bill language to ensure it reflects the recommendation made by the Task Force; there was some concern about Legislation not reflecting Task Force recommendations but being framed as enjoying consensus support from all Task Force members. Chris and Amanda explained that the Task Force is not a governing body like the Legislature. The Task Force created the Legislative Working Group to address some of the concerns raised. This Working Group will be providing an update at the next Task Force meeting (12/17). The Facilitation Team encouraged members to voice their concerns then, so the full Task Force could discuss alternatives that might provide a better process to ensure the Task Force's consensus is accurately portrayed.

UNRANKED OFFENSES & GRID RESEARCH PROPOSAL
The Subgroup reviewed their revised unranked offenses "homework". To aid Lauren and Clela's grid research, several members volunteered to review the approximately 75 unranked offenses that resulted in either a jail or prison sentence in FY19. Each Subgroup volunteer was assigned a portion of these offenses and asked to identify the most similar ranked offense, assign a seriousness level, and suggest whether the unranked offense should remain unranked, be ranked, eliminated, or addressed some other way. This exercise is not a recommendation-making process but rather a way to give Clela and Lauren guidance on how to incorporate unranked offenses into their grid research.

A Subgroup member noted that most unranked offenses resulting in a jail or prison sentence in FY19 were conspiracy or attempted drug offenses. They also pointed out that some counties choose to charge such behavior as gross misdemeanors under the general conspiracy statutes, while other counties pursue felony charges using unranked offenses. This discrepancy results in a lot of disparity between counties and complicate the criminal history scoring process. If the Legislature follows through on the

Task Force's recommendation to review and streamline sentencing statutes, they will likely remove one of these conspiracy/attempt statutes.

For the purposes of the grid research the Subgroup agreed unranked conspiracy/attempted drug offenses should occupy a separate "D+" felony classification at the bottom of the mock felony class-based research grid and would not affect criminal history scores. While sufficient to allow the grid research to move forward, several members cautioned against creating another class of felonies in statute. One member noted the collateral consequences that come with a felony conviction, such as difficulty obtaining employment, housing, etc. Another member noted that leaving some unranked offenses as is allows prosecutors the discretion to address serious behavior but avoid overly long sentences and sending people to prison.

The Subgroup spent the remainder of their meeting reviewing the unranked non-drug offenses so Lauren and Clela could also address these in their research. Each member walked through their rationale for assigning a seriousness level. Lauren and Clela will use these rankings to incorporate these offenses into their grid research.

NEXT STEPS & ACTION ITEMS
- **Subgroup** will continue to review their revised unranked offense homework next week.
- **Lauren and Clela** will use their Task Force time to prioritize the grid research, providing updates to the Subgroup as necessary.