

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: March 15, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown, *Washington Association of Prosecuting Attorneys*
- Chief Gregory Cobb, *Washington State Association of Sheriffs and Police Chiefs*
- Representative Roger Goodman, *Washington State House of Representatives Democratic Caucus*
- Keri-Anne Jetzer (alt. for Judge Wesley Saint Clair), *Sentencing Guidelines Commission*
- Lauren Knoth (research & data support), *Washington Institute for Public Policy*
- Greg Link, *WA Association of Criminal Defense Attorneys; WA Defender Association*
- Judge Wesley Saint Clair, *Sentencing Guidelines Commission*
- Chief James Schrimpscher, *Fraternal Order of Police*
- 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*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*

Guest: David Triewailer

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

WELCOME & AGENDA REVIEW

Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda.

STATE V. BLAKE PROPOSED RECOMMENDATIONS REVISED DRAFT MEMO

Nick Straley summarized the revised draft memo with proposed recommendations he volunteered to craft in response to the Subgroup's discussion of *State v. Blake* during last week's meeting and with members of the Task Force throughout the week. In addition to recommendations 1-3 (presented in the previous draft memo), Nick Straley offered two additional recommendations for the Task Force to consider:

1. That it should task the Sentencing Guidelines Commission with reviewing the implications of the *Blake* decision as part of a broader analysis of Washington's drug laws and report back to the legislature before the next session.
2. The legislature should also task and fund WSIPP or another appropriate research body with researching the impacts of the *Blake* decision.
3. The Legislature should not take action on addressing RCW 69.50.4013(1) this session and should wait for the research to be done and the SGC to provide recommendations.
4. The Legislature and other policy makers must resource Washington's behavioral health services system so that services can be provided and accessed without the need for the coercive power of the criminal justice system.
5. The legislature should take no action on addressing the consequences of the *Blake* decision until it considers the meaningful input of relevant stakeholders who should be at the table

in deciding the proper policy responses to the Blake decision. (Offered in part as an alternative/revision to recommendation #3).

Nick highlighted several key policy arenas the state is grappling with in the wake of the *Blake* decision. Speaking with other Task Force members, Nick Straley proposed recommending the Legislature convene a group of knowledgeable people (e.g., experts, researchers, individuals with lived experience, etc.) from each policy arena to provide input in guidance to legislative members prior to passing any *Blake*-related 2021 legislation.

Chief Schrimpscher explained the Fraternal Order of Police was not able to support the recommendations as previously written in the prior draft memo, but appreciated the opportunity to work with Nick Straley to revise the recommendations and believes his organization can support what is currently written. Chief Schrimpscher emphasized the sense of urgency felt by law enforcement agencies in the wake of the *Blake* decision. After conversations with legislative members, Chief Schrimpscher was confident the Legislature would implement some sort of “fix” to *Blake*.

Other Subgroup members echoed Chief Schrimpscher and Nick’s sense of urgency, particularly with regards to the Washington’s under-resourced behavioral and mental health systems. Several members also expressed a strong desire to address the issue of juvenile possession. Currently, post-*Blake*, it is illegal for minors to possess alcohol, tobacco, and cannabis, but legal for them to possess other controlled substances such as heroin, methamphetamines, etc. and law enforcement officers have no legal recourse to confiscate such substances. Although Subgroup members disagreed about how to address the issue of juvenile possession (reinstate a felony possession law, reinstate a possession law subject to age restrictions, create a misdemeanor offense, etc.), members agreed the issue was urgent and should be addressed.

Representative Goodman summarized legislative conversations with regard to the *Blake* decision, noting the Legislature is considering interim fixes to the following issues:

- Dealing;
- Personal possession;
- Juvenile possession; and
- Intervention methods if possession is not criminalized

Some Subgroup members expressed concern about instituting an amount/cap for personal use as a means to distinguish between individual possession and intent to distribute. Members noted that prosecutors have not struggled to prove possession with intent to distribute.

NEXT STEPS & ACTION ITEMS

- **The Facilitation Team** will consolidate the draft memos and share the resulting document with the full Task Force along with the other 3/18 meeting materials.
- **Nick Straley, Chief Cobb, and Jon Tunheim** will work together to draft some additional language addressing the juvenile possession issue to be discussed at the full Task Force meeting on 3/18.