Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: March 29, 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*
- Clela Steelhammer (research & data support), *Caseload Forecast Council*
- Jon Tunheim, *Washington Association of Prosecuting Attorneys*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*
- Judge Josephine Wiggs-Martin, *Superior Court Judges Association*

Guest: David Trieweiler

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

WELCOME & AGENDA REVIEW
Amanda welcomed Sentencing Grid Subgroup (Subgroup) members and reviewed the agenda.

The Subgroup briefly discussed sentencing-related bills from the current legislative session. Representative Goodman noted that all the bills based on 2020 Task Force recommendations had stalled since the Legislature has had to prioritize addressing the recent *Blake* decision by the state Supreme Court. Rep. Goodman said the Legislature is committed to addressing the issue of juvenile (i.e., under age 21) possession (of controlled substances) and local concerns about public use of controlled substances. However, any *Blake*-related bill passed in the 2021 session is likely to have a sunset clause, allowing policymakers to work in the interim to develop a comprehensive post-*Blake* state approach to drug use.

Some members noted the importance of considering people experiencing homelessness in any legislative response to public use of control substances. Others expressed concern that the Legislature's response to *Blake* does not adequately involve community and stakeholder voices.

Another member wondered how often prosecutors and courts may use simple possession as a mitigating factor and/or entry into treatment or community supervision as part of a plea negotiation. Completely decriminalizing possession would eliminate this option; however, making possession a gross misdemeanor may still allow for such flexibility.

The Facilitation Team and Lauren Knoth (Washington Institute for Public Policy, aka WSIPP) asked the Subgroup how they would like to see possession included in research by Matt Landon (Office of Financial Management Statistical Analysis Center), if at all. Members both support and opposition to including prior possession charges in the criminal history score research. A member also proposed a compromise to run some descriptive statistics on possession charges prior to removing them from the criminal history score calculation.

Action Item: Lauren will talk to Matt, summarize the Subgroup's feedback, and see what is possible given his original research question and grant funding.

DRAFT DATA & FINDINGS on SENTENCING
Lauren presented draft data and findings from her sentencing grid research, focusing on exceptional sentences. To avoid small sample sizes and create as clear as possible a picture of sentencing by race, she combined standard and unranked, aggravated and enhancements, and mitigated and sentencing alternatives. Although the First Time Offender Waiver does not necessarily result in a shorter-than-standard sentence, she combined sentencing alternatives with mitigated sentences because both are discretionary and endorse non-incarcerated approaches.

Some members expressed concerned that the current research only looks at fiscal year 2019, noting that an examination of just one year could hide larger historic disproportionalities. Lauren explained that longer-term studies of the Sentencing Reform Act (SRA) present difficulties because the Legislature has revised statutes and the scoring of various offense nearly every year since first passing the SRA. Thus, researchers would need to make a lot of assumptions about how to code the data from year to year, which would limit the clarity of the resulting findings.

NEXT STEPS & ACTION ITEMS
- **Lauren Knoth** will speak with Matt Landon about possible ways to address or exclude possession charges in his criminal history score research.