

Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Summary: April 5, 2021
Zoom Digital Conferencing Technology

Attendees:

- Russ Brown, *Washington Association of Prosecuting Attorneys*
- Chief Gregory Cobb, *Washington State Association of Sheriffs and Police Chiefs*
- Keri-Anne Jetzer (alt. for Judge 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*
- 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*
- 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. The Subgroup will have two weeks to review, discuss and provide feedback on the draft research report (presented by Lauren Knoth). Lauren will then present the final report to the full Task Force at the May 6th meeting.

EXCEPTIONAL SENTENCING DRAFT DATA & FINDINGS

Lauren presented several tables of data from the draft report and noted that she included additional tables in the appendix, presenting the data for Task Force members and the Legislature in a variety of ways. The Subgroup reviewed fiscal year 2019 data describing sentencing type by race. Lauren noted that the sample sizes were too small for some types, thus non-standard sentences were combined. The data shows stark disproportionality for Black and Hispanic individuals.

The Subgroup also reviewed data displaying aggravated sentences by race. Again, due to small sample sizes some categories were collapsed; the aggravated sentencing data compares the average length (above the standard maximum) for white and BIPOC individuals. People of color were more likely to receive an aggravated sentence than white individuals relative to their representation in all FY2019 sentences. The average percentage above the standard maximum tends to be larger for BIPOC individuals compared to whites, particularly as offense seriousness level increases. Looking at average percentages above the standard maximum allows one to make comparisons despite differences in criminal history scores. Lauren also noted that the sample size decreases as offense seriousness level increases and additional studies would need to be done to determine if the disproportionality is unique to FY2019 or whether the trend persists across years.

Lauren presented similar tables displaying mitigated sentencing data for FY2019. Black and Hispanic individuals were more likely than white individuals to receive a mitigated sentence. However, white individuals who did receive a mitigated sentence tended to have a greater percentage reduction below the standard minimum sentence than their Black and Hispanic peers. Additional tables in the appendix display the most common exceptional (mitigating or aggravating) sentence justification by race. The courts most often cited “interest of justice” when imposing exceptional sentences for BIPOC individuals, but “all parties agreed” when imposing such sentences for white individuals.

The data on FY2019 sentencing enhancements provided fewer clear trends, although the total number of enhancements received was greater for Black and Hispanic individuals.

Lauren clarified that the research report is not intended to describe causal relationships but instead documents FY2019 sentences on average. Teasing out causal links would require a much larger, multivariate regression analysis. The Subgroup discussed various potential sources of disproportionality in the system, including defense attorney bias, cumulative disadvantages captured in criminal history scores, the plea bargain vs. trial process, etc.

NEXT STEPS & ACTION ITEMS

- **Subgroup members** will provide any additional feedback to Lauren before Tuesday (4/20).