Washington State Criminal Sentencing Task Force Meeting

August 19, 2021 9:00am-12:30pm

ZOOM Meeting

Agenda

Agenda

- Task Force introductions and updates
- Updates: Co-Chairs, Facilitation Team, Sentencing Alternatives Workgroup
- Sentencing Grid Subgroup presentation & next offer of potential recommendations for Task Force input

Agenda

9:00am
Review Agenda, Groundrules

9:10am
Introductions and Updates

9:40am
Sentencing Grid Subgroup Presentation –Potential Recommendations

10:30am
BREAK

10:45am
Discussion and Input on First Offer Recommendations

12:00pm
Questions from Observers

12:30pm
Adjourn

ZOOM: Virtual Meeting Groundrules

Chat Reminder: We have disabled the private chat function to adhere to your groundrule of no side conversations.

*****If you want to chat to the facilitators or pass along info to the Task Force, please send your chat to Molly Stenovec, who monitors the chat.**

Phone Participation: For those only on via phone, we will facilitate discussion similar to in-person meetings. During discussion, we will start w/Task Force members "in the room" and then those on phone.

ZOOM: Virtual Meeting Groundrules

When you want to speak: To avoid talking over one another, we ask that those on video use the “raise your hand function”. The Facilitation Team will monitor this and call on folks individually, similar to how we use table tents during in-person meetings.

To access the “raise your hand function”:

Click on the “reactions” icon. Then “raise hand” button.

To lower “raised hand”: click “reactions” icon.

Then “lower hand” button.

Task Force Groundrules

Criminal Sentencing Task Force Groundrules

- **Be Respectful**
  - One person speaks at a time; listen when others are speaking, avoid interrupting and side conversations.
  - Keep comments brief so everyone gets a chance to share their thoughts. Avoid dominating the discussion.
  - **Hear and respect all opinions.**
  - Silence cell phones and refrain from using laptops during the meeting, except to take notes.
- **Be Constructive**
  - Acknowledge that all participants bring with them legitimate purposes, goals, concerns, and interests, whether or not you are in agreement with them.
  - **Openly explore issues.**
  - Act in “good faith,” seeking to resolve conflicts and identify solutions.
  - State concerns and interests clearly, listen carefully to and assume the best in others. Leave negative assumptions and attitudes at the door.
  - **Share comments that are solution focused,** rather than repeating past discussions.
  - It’s OK to disagree, it is not OK to make personal attacks.
  - Minimize the use of jargon and acronyms, define and explain when used.
  - Work towards consensus. Be willing to compromise.
  - **Ask for clarification when uncertain** of what another person is saying. Ask questions rather than make assumptions.
- **Be Productive**
  - Begin and end meetings on time.
  - Respect time constraints.
  - Adhere to the agenda as much as possible, focusing on the subject at hand.

9:10-9:40am

Task Force Introductions

- **Members:** Please state name, affiliation, and constituency you represent.
- **Alternates:** Please state name, affiliation, and who you are an alternate for on the Task Force.

Co-Chair & Facilitator Updates

Sentencing Alternatives Work Group Updates

9:40–9:50am

Quick Recap Of Potential Rec 2 & 3 Discussed at August 5th Task Force Meeting

REMINDER: The Sentencing Grid Subgroup is taking a three-pronged approach to address grid cell ranges, sentence lengths, and zones:

1. Expanding and revising the southwest corner of the grid.
2. Addressing midrange OSL cells to avoid presumptive sentences that exceed statutory maximum of Class C and/or B felonies.
3. Ways to reduce excessively long sentences, while maintaining accountability for serious offenses.

Offense Seriousness Level	0	1	2	3	4	5	6	7	8	9+	Total A	Total B	Total C	
XVI	Life sentence without parole/death penalty for individuals at over the age of 18. For those under the age of 18, a term of 25 years to life.													
XV	240-320 m	250-333 m	261-347 m	271-361 m	281-374 m	291-388 m	312-416 m	338-450 m	370-493 m	411-548 m	31	0	0	
XIV	123-220 m	134-234 m	144-244 m	154-254 m	165-265 m	175-275 m	195-295 m	216-316 m	257-357 m	298-397 m	32	0	0	
XIII	123-164 m	134-178 m	144-192 m	154-205 m	165-219 m	175-233 m	195-260 m	216-288 m	257-342 m	298-397 m	1	0	0	
XII	93-123 m	102-136 m	111-147 m	120-160 m	129-171 m	138-184 m	162-216 m	178-236 m	209-277 m	240-318 m	76	0	0	
XI	78-102 m	86-114 m	95-125 m	102-136 m	111-147 m	120-158 m	146-194 m	159-211 m	185-245 m	210-280 m	40	0	0	
X	51-68 m	57-75 m	62-82 m	67-89 m	72-96 m	77-102 m	98-130 m	108-144 m	129-171 m	149-198 m	22	3	0	
IX	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	77-102 m	87-116 m	108-144 m	129-171 m	171	33	0	
VIII	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	67-89 m	77-102 m	86-116 m	108-144	17	40	0	
VII	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	57-75 m	67-89 m	77-102 m	87-116 m	79	338	0	
VI	12+-14 m	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	46-61 m	57-75 m	67-89 m	77-102 m	0	129	41	
V	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	41-54 m	51-68 m	62-82 m	72-96 m	0	105	680	785
IV	3-9 m	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	43-57 m	53-70 m	63-84 m	0	1888	90	1978
III	1-3 m	3-8 m	4-12 m	9-12 m	12+-16 m	17-22 m	22-29 m	33-43 m	43-57 m	51-68 m	0	1002	2721	3723
II	0-90 d	2-6 m	3-9 m	4-12 m	12+-14 m	14-18 m	17-22 m	22-29 m	33-43 m	43-57 m	0	1269	851	2120
I	0-60 d	0-90 d	2-5 m	2-6 m	3-8 m	4-12 m	12+ -14 m	14-18 m	17-22 m	22-29 m	0	1	2746	2747
											0	284	2241	

Lower ranges to expand jail eligibility
Lower ranges to not exceed stat max
Lower ranges systematically by X% to reduce excessive incarceration lengths

Laws Informing Sentencing

Current system:

Statutory Maximum Sentences:

- Class A felony offense – Life in Prison
- Class B felony offense – 10 years (120 months) in prison
- Class C felony offense – 5 years (60 months) in prison

Offense Seriousness Level:

- Not tied to felony class
- Ranges from 1-16
- Also 300+ unranked offenses

Presumptive Sentencing Ranges:

- Based on offense seriousness level and criminal history score.
- Sentences increase as seriousness level increases and as criminal history score increases.

Sometimes, these three sentencing structures contradict.

AUGUST 5TH CSTF Meeting Discussion:

Potential Rec. 2

Move all felony class B offenses to no higher than OSL 9. Move all felony class C offenses to no higher than OSL 5. Include new legislative/statutory language specifying that:

> *"Class C felony offenses may not exceed offense seriousness level 5. Class B felony offenses may not exceed offense seriousness level 9."*

Purpose: creating consistency in the placement of offenses into different seriousness levels, based on felony class.

Results of Rec 2

Colors are illustrative only. Felony class would not be added to the grid, but the language in the recommendation would functionally sort offenses in OSL by felony class.

Increases consistency between felony class and OSL.

	Offense Seriousness Level	0	1	2	3						9+
CLASS A	XVI	Life sentence without parole/death penalty for individuals at									
	XV	240-320 m	250-333 m	261-347 m	271-361 m	281-37					m
	XIV	123-220 m	134-234 m	144-244 m	154-254 m	165-26					m
	XIII	123-164 m	134-178 m	144-192 m	154-205 m	165-219 m	175-233 m	199-266 m	216-288 m	237-342 m	258-397 m
	XII	93-123 m	102-136 m	111-147 m	120-160 m	129-171 m	138-184 m	162-216 m	178-236 m	209-277 m	240-318 m
	XI	78-102 m	86-114 m	95-125 m	102-136 m	111-147 m	120-158 m	146-194 m	159-211 m	185-245 m	210-280 m
	X	51-68 m	57-75 m	62-82 m	67-89 m	72-96 m	77-102 m	98-130 m	108-144 m	129-171 m	149-198 m
CLASS A & B	IX	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	77-102 m	87-116 m	108-144 m	129-171 m
	VIII	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	67-89 m	77-102 m	86-116 m	108-144
	VII	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	57-75 m	67-89 m	77-102 m	87-116 m
	VI	12+-14 m	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	46-61 m	57-75 m	67-89 m	77-102 m
CLASS A, B, & C	V		12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	41-54 m	51-68 m	62-82 m	72-96 m
	IV			12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	43-57 m	53-70 m	63-84 m
	III				9-12 m	12+-16 m	17-22 m	22-29 m	33-43 m	43-57 m	51-68 m
	II					12+-14 m	14-18 m	17-22 m	22-29 m	33-43 m	43-57 m
	I							12+ -14 m	14-18 m	17-22 m	22-29 m

AUGUST 5TH CSTF Meeting Discussion:

Potential Rec. 3

The statutory maximum for class C and class B felonies is 5 and 10 years, respectively. Washington's current grid contains several cells where the courts are unable to sentence some crimes within the full or partial range because they are greater than the statutory maximum.

To address cells where the presumptive sentencing range exceeds the statutory maximum for class C and class B felonies, make maximum of the range in CHS 9+ for OSL V 54 months and for OSL IX 108 months.

Offense Seriousness Level	0	1	2	3	4	5	6	7	8	9+	Total A	Total B	Total C	
XVI	Life sentence without parole/death penalty for individuals at over the age of 18. For those under the age of 18, a term of 25 years to life.													
XV	240-320 m	250-333 m	261-347 m	271-361 m	281-374 m	291-388 m	312-416 m	338-450 m	370-493 m	411-548 m	31	0	0	
XIV	123-220 m	134-234 m	144-244 m	154-254 m	165-		-316 m	257-357 m	298-397 m		32	0	0	
XIII	123-164 m	134-178 m	144-192 m	154-205 m	165-		-288 m	257-342 m	298-397 m		1	0	0	
XII	93-123 m	102-136 m	111-147 m	120-160 m	129-		-236 m	209-277 m	240-318 m		76	0	0	
XI	78-102 m	86-114 m	95-125 m	102-136 m	111-		-211 m	185-245 m	210-280 m		40	0	0	
X	51-68 m	57-75 m	62-82 m	67-89 m	72-9		-144 m	129-171 m	149-198 m		22	~~3~~	0	
IX	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	77-102 m	87-116 m	108-144 m	129-171 m	171	33	0	
VIII	21-27 m	26-34 m	31-41 m	36-48			m	77-102 m	86-116 m	108-144	17	40	0	
VII	15-20 m	21-27 m	26-34 m	31-41			m	67-89 m	77-102 m	87-116 m	79	338	0	
VI	12+-14 m	15-20 m	21-27 m	26-34			m	57-75 m	67-89 m	77-102 m	0	129	~~41~~	
V	6-12 m	12+-14 m	13-17 m	15-20			m	51-68 m	62-82 m	72-96 m	0	105	680	785
IV	6-9 m	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	43-57 m	53-70 m	63-84 m	0	1888	90	1978
III	2-6 m	2-9 m	6-12 m	9-12 m	12+-16 m	17-22 m	22-29 m	33-43 m	43-57 m	51-68 m	0	1002	2721	3723
II	0-3 m	2-6 m	3-9 m	6-12 m	12+-14 m	14-18 m	17-22 m	22-29 m	33-43 m	43-57 m	0	1269	851	2120
I	0-3 m	0-3 m	2-6 m	2-6 m	3-9 m	6-12 m	12+ -14 m	14-18 m	17-22 m	22-29 m	0	1	2746	2747

Class B stat max is 120 months. (assumes changes under Rec 2 with no class B offenses above OSL IX)

Class C stat max is 60 months. (assumes changes under Rec. 2 with no class C offenses above OSL V)

Offense Seriousness Level	0	1	2	3	4	5	6	7	8	9+	Total A	Total B	Total C	
XVI	Life sentence without parole/death penalty for individuals at over the age of 18. For those under the age of 18, a term of 25 years to life.													
XV	240-320 m	250-333 m	261-347 m	271-361 m	281-374 m	291-388 m	312-416 m	338-450 m	370-493 m	411-548 m	31	0	0	
XIV	123-220 m	134-234 m	144-244 m	154-254 m	165-		-316 m	257-357 m	298-397 m		32	0	0	
XIII	123-164 m	134-178 m	144-192 m	154-205 m	165-		-288 m	257-342 m	298-397 m		1	0	0	
XII	93-123 m	102-136 m	111-147 m	120-160 m	129-		-236 m	209-277 m	240-318 m		76	0	0	
XI	78-102 m	86-114 m	95-125 m	102-136 m	111-147 m	120-158 m	146-194 m	159-211 m	185-245 m	210-280 m	40	0	0	
X	51-68 m	57-75 m	62-82 m	67-89 m	72-96 m	77-102 m	98-130 m	108-144 m	129-171 m	149-198 m	22	~~3~~	0	
IX	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	77-102 m	87-116 m	108-144 m	**129-171 m**	171	33	0	
VIII	21-27 m	26-34 m	31-41 m	36-48		m	77-102 m	86-116 m	108-144		17	40	0	
VII	15-20 m	21-27 m	26-34 m	31-41		m	67-89 m	77-102 m	87-116 m		79	338	0	
VI	12+-14 m	15-20 m	21-27 m	26-34		m	57-75 m	67-89 m	77-102 m		0	129	~~41~~	
V	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	41-54 m	51-68 m	62-82 m	**72-96 m**	0	105	680	785
IV	6-9 m	6-12 m	12+-14 m	13-17 m	15-20 m	22-29 m	33-43 m	43-57 m	53-70 m	63-84 m	0	1888	90	1978
III	2-9 m	2-9 m	6-12 m	9-12 m	12+-16 m	17-22 m	22-29 m	33-43 m	43-57 m	51-68 m	0	1002	2721	3723
II	0-9 m	2-9 m	3-9 m	6-12 m	12+-14 m	14-18 m	17-22 m	22-29 m	33-43 m	43-57 m	0	1269	851	2120
I	0-9 m	0-9 m	2-9 m	2-9 m	3-9 m	6-12 m	12+ -14 m	14-18 m	17-22 m	22-29 m	0	1	2746	2747

Recommendation reduces the highest punishment to 108.

Recommendation reduces the highest punishment to 54.

Potential Rec. 3

Effects:

- Allows for up to 6 months community custody or aggravated sentence for class C felonies
- Allows for up to 12 months community custody or aggravated sentence for class B felonies
- Would reduce the standard ranges for sentences at OSL 9 or lower.

9:50–10:30am

Sentencing Grid Subgroup Presentation & Discussion: Potential Recommendations, Tradeoffs, and Considerations

The Current Grid

RCW 9.94A.506

(1) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(2) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range.

These limitations (with the exception of Murder 2 in seriousness level 14) were part of the Sentencing Reform Act of 1981 as set by the Legislature. The Sentencing Guidelines Commission was required to incorporate them into its recommended sentence ranges.

The SGC collected data from various agencies from FY1979 – FY1981 to assist in creation of sentence ranges.

The Current Grid

	0		1		2		3		4		5		6		7		8		9+	
XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
XIII	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397
XII	93	123	102	136	111	147	120	160	129	171	138	184	162	216	178	236	209	277	240	318
XI	78	102	86	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
X	51	68	57	75	62	82	67	89	72	96	77	102	98	130	108	144	129	171	149	198
IX	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	108	144	129	171
VIII	21	27	26	34	31	41	36	48	41	54	46	61	67	89	77	102	87	116	108	144
VII	15	20	21	27	26	34	31	41	36	48	41	54	57	75	67	89	77	102	87	116
VI	12.05	14	15	20	21	27	26	34	31	41	36	48	46	61	57	75	67	89	77	102
V	6	12	12.05	14	13	17	15	20	22	29	33	43	41	54	51	68	62	82	72	96
IV	3	9	6	12	12.05	14	13	17	15	20	22	29	33	43	43	57	53	70	63	84
III	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
II	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
I	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
Unr	0 - 365 days																			

RCW 9.94A.506

(1) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(2) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range.

Grid Subgroup Considering A Formula

- Durability – creating a structure gives guidance to Legislators for future policy decisions.
  - Currently, the absence of structure means that policies are not always consistent with past practices and lead to continuous variation, exceptions, and inconsistency
- Consistency – creating consistency within the grid.
  - Current grid does not have consistency in the increase in sanctions with OSL or CHS. There isn't a particular way to answer the question: "Why are the ranges what they are?"
  - Formula can directly consider other statutory sentencing regulations like statutory maximum to create consistency across different aspects of the sentencing structure.
- **Note**: recalibration will likely be necessary to make sure certain offenses make sense within the new structure and formula. The focus is not on any particular offense, but rather the State's policy and views on sentencing broadly. Changes to particular SL's may be necessary once the overall grid structure is established.

Formula

3

	0		1		2		3		4		5		6		7		8		9+	
V	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.9	46.4	16.2	54.0
IV	2.7	9.0	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.5	45.0
III	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	7.7	25.8	9.3	31.0	10.8	36.0
II	0.0	3.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	8.1	27.0
I	0.0	2.0	0.0	3.0	1.5	5.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	18.0
Unr	0 - 365 days																			

1

2

1. Anchor.
2. Calculation of maximum range per seriousness level is based on anchor.
3. Calculation of CHS 0 upper range value is based on anchor.

Formula

3 4 1 2

	0		1		2		3		4		5		6		7		8		9+	
V	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.9	46.4	16.2	54.0
IV	2.7	9.0	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.5	45.0
III	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	7.7	25.8	9.3	31.0	10.8	36.0
II	0.0	3.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	8.1	27.0
I	0.0	2.0	0.0	3.0	1.5	5.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	18.0
Unr	0 - 365 days																			

1. Anchor.
2. Calculation of maximum range per seriousness level is based on anchor.
3. Calculation of CHS 0 upper range value is based on anchor.
4. Calculation of the upper range of the cell to the right is based on the upper range of the cell to the left.

Formula

3 5 4 1 2

	0		1		2		3		4		5		6		7		8		9+	
V	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.9	46.4	16.2	54.0
IV	2.7	9.0	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.5	45.0
III	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	7.7	25.8	9.3	31.0	10.8	36.0
II	0.0	3.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	8.1	27.0
I	0.0	2.0	0.0	3.0	1.5	5.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	18.0
Unr	0 - 365 days																			

1. Anchor.
2. Calculation of maximum range per seriousness level is based on anchor.
3. Calculation of CHS 0 upper range value is based on anchor.
4. Calculation of the upper ranges is based on the upper range value to the left.
5. Calculation of the lower range is based on the upper range value (current policy).

Formula

3 5 4 1 2

	0		1		2		3		4		5		6		7		8		9+	
V	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.9	46.4	16.2	54.0
IV	2.7	9.0	3.2	10.8	3.9	13.0	4.7	15.6	5.6	18.7	6.7	22.4	8.1	26.9	9.7	32.2	11.6	38.7	13.5	45.0
III	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	7.7	25.8	9.3	31.0	10.8	36.0
II	0.0	3.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	17.9	6.4	21.5	8.1	27.0
I	0.0	2.0	0.0	3.0	1.5	5.0	1.8	6.0	2.2	7.2	2.6	8.6	3.1	10.4	3.7	12.4	4.5	14.9	5.4	18.0
Unr	0 - 365 days																			

1. Anchor.
2. Calculation of maximum range per seriousness level is based on anchor.
3. Calculation of CHS 0 upper range value is based on anchor.
4. Calculation of the upper ranges is based on the upper range value to the left.
5. Calculation of the lower range is based on the upper range value (current policy).
6. Drop any partial months, e.g. 7.2 becomes 7.0, 38.7 becomes 38.0.

6

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Formula Effects: I - V

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Light green cells represent the current Southwest Corner – where sentences are presumptive jail sentences.

Dark green cells represent cells that would now be presumptive jail sentences instead of presumptive prison sentences.

Yellow cells were previously presumptive prison sentences, but are “straddle” cells with the formula, such that sentences may be jail or prison confinement.

Blue cells were previously presumptive prison sentences and are still presumptive prison sentences with the formula.

Formula Effects: I - V

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Maximums reduced between 2 and 42 months. Average reduction in maximum is only 10 months.

However, in the current system, judges commonly sentence at the midpoint or below the midpoint, so the maximums were rarely used anyway.

Formula Effects: I - V

CURRENT GRID RANGES

	0		1		2		3		4		5		6		7		8		9+	
V	6	12	12.05	14	13	17	15	20	22	29	33	43	41	54	51	68	62	82	72	96
IV	3	9	6	12	12.05	14	13	17	15	20	22	29	33	43	43	57	53	70	63	84
III	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
II	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
I	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
Unr	0 - 365 days																			

FORMULA GRID RANGES

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Formula Effects: I - V

CURRENT GRID RANGES

	0		1		2		3		4		5		6		7		8		9+	
V	6	12	12.05	14	13	17	15	20	22	29	33	43	41	54	51	68	62	82	72	96
IV	3	9	6	12	12.05	14	13	17	15	20	22	29	33	43	43	57	53	70	63	84
III	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
II	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
I	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
	0 - 365 days																			

WSIPP report found that average sentences were often at the midpoint or lower.

OSL	0	1	2	3	4	5	6	7	8	9+
	g Max	3 Avg Min Max	4 Avg Min Max	5 Avg Min Max	6 Avg Min Max	7 Avg Min Max	8 Avg Min Max	9+ Avg Min Max		
5	8	12	14	16	24	35	43	53	64	64
	6 12	9 14	10 17	15 20	22 29	33 43	41 50	51 60	60 82	60 96
4	5	8	12	14	16	24	36	46	58	70
	2 9	5 12	9 14	10 17	11 20	17 29	25 60	32 57	44 70	47 84
3	2	4	6	10	13	18	24	35	47	55
	1 3	2 8	3 12	7 14	9 24	13 22	17 29	25 43	32 57	38 68
2	1	3	4	5	12	15	18	23	34	45
	0 5	0 9	2 9	3 12	9 14	11 18	16 22	17 29	25 43	32 57
1	1	1	2	3	4	6	12	15	18	25
	0 2	0 3	2 12	2 6	3 9	3 12	12 14	14 18	17 22	22 29

Formula Effects: I - V

FORMULA GRID RANGES

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
							1	6	2	7	2	8	3	10	3	12	4	14	5	18

For about half of the cells, the average sentence in FY 19 was still within the range of the cells created using the formula.

0 - 365 days

OSL	0		1		2		3		4		5		6		7		8		9+	
							3		**4**		**5**		**6**		**7**		**8**		**9+**	
							Avg		**Avg**		**Avg**		**Avg**		**Avg**		**Avg**		**Avg**	
							Min	**Max**	**Min**	**Max**	**Min**	**Max**	**Min**	**Max**	**Min**	**Max**	**Min**	**Max**	**Min**	**Max**
							16		24		35		43		53		64		64	
	6	12	9	14	10	17	15	20	22	29	33	43	41	50	51	60	60	82	60	96
4	5		8		12		14		16		24		36		46		58		70	
	2	9	5	12	9	14	10	17	11	20	17	29	25	60	32	57	44	70	47	84
3	2		4		6		10		13		18		24		35		47		55	
	1	3	2	8	3	12	7	14	9	24	13	22	17	29	25	43	32	57	38	68
2	1		3		4		5		12		15		18		23		34		45	
	0	5	0	9	2	9	3	12	9	14	11	18	16	22	17	29	25	43	32	57
1	1		1		2		3		4		6		12		15		18		25	
	0	2	0	3	2	12	2	6	3	9	3	12	12	14	14	18	17	22	22	29

Formula Effects: I - V

WSIPP REPORT – MITIGATED SENTENCES

OSL	BIPOC 0	BIPOC 1	BIPOC 2	BIPOC 3	BIPOC 4	BIPOC 5	BIPOC 6	BIPOC 7	BIPOC 8	BIPOC 9+	White 0	White 1	White 2	White 3	White 4	White 5	White 6	White 7	White 8	White 9+
5	1.0%	0.7%	0.7%	1.9%	1.0%	3.4%	2.4%	3.1%	1.7%	8.9%		1.2%	1.2%	1.0%	1.5%	2.5%	3.0%	3.4%	2.5%	8.9%
4	0.7%	1.0%	1.9%	1.4%	1.2%	0.7%	1.0%	0.7%	1.2%	2.6%	2.7%	1.2%	2.7%	2.9%	1.7%	0.7%	0.8%	0.2%	0.5%	3.2%
3	1.4%	1.7%	2.2%	2.2%	3.4%	2.9%	1.2%	1.4%	2.6%	7.4%	1.9%	2.9%	1.9%	3.0%	2.2%	3.7%	1.2%	1.3%	1.3%	7.1%
2		0.7%			1.4%	1.0%	0.2%	1.0%	1.4%	5.5%		0.5%	0.3%	0.5%	1.2%	1.7%	1.2%	1.3%	1.0%	5.6%
1			0.2%	0.2%		0.7%	1.7%	1.0%	1.4%	1.9%			1.0%	0.2%	0.7%	0.7%	0.8%	0.7%	0.5%	3.0%

WSIPP report found that mitigated sentences were most common for BIPOC and White defendants with higher levels of CHS. It is possible that courts view the current system as too punitive in cells with higher CHS.

The biggest reductions in sentences are for cells with higher CHS.

Mitigated and aggravated sentences are appealable and potentially imposed disproportionately.

Formula Effects: I - V

FORMULA GRID RANGES

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

- Judges still able to impose aggravated sentences for cases in which longer confinement times are justified.
- More judges able to impose sentences that are less than the current system allows due to sentences not being appealed.
- Eliminates the potential for disproportionality in sentences (since lower sentences are now within the standard range)

Potential Recommendation # 6

If the maximum sentence based on the formula is 12 months or less, the minimum is automatically reduced to zero.

Justifications and Effects:

- Creates wider discretion for judges in the southwest corner of the grid.
- Expands the number of cells in which there is an option for 0 months incarceration (currently 3 cells).
- Impact on incarceration will vary because of pre-trial confinement.
  - Under current system, some individuals in SW corner sentenced to time served, so no additional incarceration after sentencing.

Potential Recommendation # 6

	0		1		2		3		4		5		6		7		8		9+	
V	**3**	10	**3**	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	**2**	9	**3**	10	**3**	12	4	15	5	18	6	22	8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	45
III	**2**	7	**2**	8	**3**	10	**3**	12	4	14	5	17	6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	36
II	0	3	**1**	6	**2**	7	**2**	8	**3**	10	**3**	12	4	14	5	17	6	21	8	27
I	0	2	0	3	**1**	5	**1**	6	**2**	7	**2**	8	**3**	10	**3**	12	4	14	5	18
Unr	0 - 365 days																			

Only affects minimums that are 3 months or less.

	0		1		2		3		4		5		6		7		8		9+	
V	0	10	0	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	0	9	0	10	0	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	0	7	0	8	0	10	0	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	0	6	0	7	0	8	0	10	0	12	4	14	5	17	6	21	8	27
I	0	2	0	3	0	5	0	6	0	7	0	8	0	10	0	12	4	14	5	18
Unr	0 - 365 days																			

Potential Recommendation # 6

If the maximum sentence based on the formula is 12 months or less, the minimum is automatically reduced to zero.

Potential Concerns:

- Expands ranges in SW corner where WSIPP found frequent disproportionality in sentencing.
- Could lead to geographic differences due to differences in varying philosophies of punishment in combination with wide ranges.
- Judges may be unlikely to sentence to 0 months incarceration without some other alternative (e.g., probation)
  - Could consider integrating a sentencing alternative for SW corner that provides state funding/assistance for a community alternative.

10:30-10:45am

BREAK

10:45–12:00pm

CONT.

Sentencing Grid Subgroup Presentation and Discussion: Potential Recommendations, Tradeoffs, and Considerations

*Formula Effects: Straddle Cells

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Yellow cells were previously presumptive prison sentences, but are “straddle” cells with the formula, such that sentences may be jail or prison confinement.

Potential Recommendation # 7

Eliminating Straddle Cells

If the maximum based on the formula is more than 12 months, the minimum must be at least 12 months and a day.

Justifications and Effects:

- Eliminates straddle cells.
- Creates variability in the width of the ranges such that some ranges will be very small.
- Creates more predictability in caseloads for local and state facilities and clarity/ predictability about whether a defendant will face a jail or prison sentence.
- Prevents an increase in local resources (jail sentences).

Potential Recommendation # 7

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	**4**	15	**5**	18	**6**	22	**8**	26	**9**	32	**11**	38	13	46	16	54
IV	2	9	3	10	3	12	**4**	15	**5**	18	**6**	22	**8**	26	**9**	32	**11**	38	13	45
III	2	7	2	8	3	10	3	12	**4**	14	**5**	17	**6**	21	**7**	25	**9**	30	**10**	36
II	0	3	1	6	2	7	2	8	3	10	3	12	**4**	14	**5**	17	**6**	21	**8**	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	**4**	14	**5**	18
Unr	0 - 365 days																			

	0		1		2		3		4		5		6		7		8		9+	
V	3	10	3	12	12+	15	12+	18	12+	22	12+	26	12+	32	12+	38	13	46	16	54
IV	2	9	3	10	3	12	12+	15	12+	18	12+	22	12+	26	12+	32	12+	38	13	45
III	2	7	2	8	3	10	3	12	12+	14	12+	17	12+	21	12+	25	12+	30	12+	36
II	0	3	1	6	2	7	2	8	3	10	3	12	12+	14	12+	17	12+	21	12+	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	12+	14	12+	18
Unr	0 - 365 days																			

Potential Recommendation # 7

Eliminating Straddle Cells

If the maximum based on the formula is more than 12 months, the minimum must be at least 12 months and a day.

Potential concerns:

- If there is disproportionality in sentences, potentially bigger consequences on communities of color. If POC are more likely to receive a prison sentence in straddle cells then results: 1) have longer sentences and 2) serve confinement sentences outside their local communities.
- Eliminating straddle cells will make sentences longer in those cells.
- May lead to more trials and/or disagreement within courts based on whether individuals want a jail or prison sentence for a particular case.

Potential Recommendation # 8

Keeping Straddle Cells

Stipulate that sentences for individuals in straddle cells are paid for by the state.

- Justification: if they are not prison sentences, it is saving DOC funding by reducing DOC caseloads, so that funding could be diverted to the local courts to support non-incarcerative alternatives.

For sentences in this zone, presumptive sentence is a sentencing alternative that is served locally.

- Could be operated by local courts but funded by the state
- Reduces prison sentences/beds/costs, so cost savings can be used to fund the intermediate sanctions program.
- Could require state approval of county's intermediate punishment plan to ensure that the programs are meeting a minimum standard. Can set requirements for that plan that must be reviewed annually.
- Provide funding through a block grant based on a formula, modeled on the Juvenile Court block grant program.

For sentences in this zone, sentences that are DOC sentences (more than 12 months) could have an option for state Intermediate Sanctions

- Partial confinement
- Allows DOC to assume the financial/resource responsibility for community supervision portion of the sentence.
- Includes an emphasis on rehabilitation and programming.

Potential Recommendation # 8

Keep Straddle Cells – Create a State-Funded Intermediate Sanction Zone

Stipulate that sentences for individuals in straddle cells are paid for by the state.

For sentences in this zone, presumptive sentence is a sentencing alternative that is served locally.

For sentences in this zone, sentences that are DOC sentences (more than 12 months) could have an option for state Intermediate Sanctions

- Effects/Justifications:
  - New cells will have a lower mid-point, likely facilitating a small decrease in sentence lengths.
  - Provides support for Counties while still allowing State oversight to ensure that community services meet certain standards.
  - Supports rehabilitative and non-incarcerative alternatives without increasing financial burden on counties
  - Can help support expansions of community services/resources that local counties could then use for other individuals under local sanctions (e.g., SW corner of the grid)
  - Shifts focus from retribution/confinement to rehabilitation and community reintegration (reducing collateral consequences of incarceration)
  - Provides a check on prosecutorial discretion by creating more opportunities for different outcomes that defendants/defense atty's/judges can impose.

Potential Recommendation # 8

Keep Straddle Cells – Create a State-Funded Intermediate Sanction Zone

Stipulate that sentences for individuals in straddle cells are paid for by the state.

For sentences in this zone, presumptive sentence is a sentencing alternative that is served locally.

For sentences in this zone, sentences that are DOC sentences (more than 12 months) could have an option for state Intermediate Sanctions

- Possible Concerns:
  - Geographic differences aren't just due to funding, but fundamental differences in philosophies of punishment, so some courts may still be unlikely or less likely to use intermediate sanction program.
  - Potential disparity in who receives the sentencing alternative
    - Could be checked by making the intermediate sanction alternative the presumptive sentence
  - Potential for large reductions in sentence lengths.

12:00 – 12:30pm

Questions from Observers

12:30pm

ADJOURN