

**Washington State Criminal Sentencing Task Force  
Sentencing Grid Subgroup  
Meeting Notes: September 28, 2021  
Meeting via Zoom**

**Attendees:**

- Rep. Roger Goodman, *WA Legislature*
- Keri-Anne Jetzer, (Alt. for Judge St. Clair), *Sentencing Guidelines Commission*
- Lauren Knoth, *WA State Institute for Public Policy*
- Melody Simle, (Alt. for Suzanne Cook), *Statewide Family Council*
- Judge Wesley Saint Clair, *Sentencing Guidelines Commission*
- Clela Steelhammer, *Caseload Forecast Council*
- Nick Straley, *Interests of Incarcerated Persons*
- Jon Tunheim, *WA Association of Prosecuting Attorneys*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*

**Guests:** James Chambers, Bruce Glant, David Triewailer

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

**WELCOME & AGENDA**

Amanda welcomed everyone and let the Subgroup know today's meeting would start with reviewing three simulations for Murder 1 minimum anchor point, which the group asked to be simulated at last week's meeting. Following that discussion, will then be reviewing all the potential recommendations to date on the vertical axis as a whole, with all the components together in a proposed simulated version. She thanked Keri-Anne, Lauren, and Clela for putting in long hours to pull it all together.

**DISCUSSION: THE SENTENCING GRID**

Keri-Anne displayed three simulations for Murder 1 with the anchor point at CHS 0 as:

- 20 years (240 months) (current grid) – *see appendix A*
- 18 years (216 months) - *see appendix B*
- 15 years (180 months) - *see appendix C*

A member said prosecutors could likely support a change in statute for the mandatory minimum to be lowered to 15 years for Murder 1 but keeping the sentence range for CHS 0 on the grid at 20 years, which would allow a judge to issue an exceptional sentence below 20 or for prosecutors to plea deal an exceptional sentence downward. of that length as an exceptional lower sentence with mitigating circumstances.

Another member asked how many defendants with CHS of 0 would face first-degree murder charges in any given year and pointed out that the state Supreme Court appears likely to rule that mandatory minimums for individuals under 25 are unconstitutional. Lauren Knoth reported that 22 of 51 murder cases in fiscal year 2019 were issued to defendants with CHS of 0.

The group discussed how much “good time” or earned early release is available for the sentence. Currently at 10%, this would mean 10% off 5 years based on the suggested proposal. A member proposed addressing the issue of earned release time and proposed increasing to 33% and making 33% eligible for the entire sentence.

Another member explained that for their constituency, twenty years seems a reasonable starting point for premeditated murder. A member commented that any new grid that did not bring significant real-world change, and that instead functioned more as “window dressing,” would be concerning. They asked for the data or logic underpinning the original decision to set a mandatory minimum of 20 years for aggravated murder. Another member agreed that the sentence lengths were selected without data.

Lauren suggested adjusting the formula to bring a shorter maximum sentence for CHS 9+. The group looked briefly at that revised version of the simulated grid, which had a top-right maximum sentence length of 350 months, before transitioning.

### **COMPILING GRID RECOMMENDATIONS**

Lauren reviewed the potential grid recommendations that the group has discussed and put forward to the Task Force to date. These PowerPoint slides are in draft form and what would like to put together into a packet for the full Task Force to be able to review as a refresher in advance of the meeting. Amanda asked members to offer input, suggestions, and edits.

#### Recap of potential recommendations:

To address the Task Force’s policy goals of reducing complexity and errors, and improving effectiveness of sentencing, the simulated grid using a formulaic approach, with slight changes in formula specifications by region of the grid. The Maximums at CHS 9+ increase equally by SL within each grid section (high, middle, and low):

- High ranges (OSL 10-16):
  - Maximum at 0 CHS is 35% of Maximum at CHS 9+.
  - Maximum from CHS 1 – 8 is 110% of prior maximum.
  - Minimum is 75% of the maximum for each cell.
- Middle ranges:
  - Maximum at 0 CHS is 20% of Maximum at CHS 9+.
  - Maximum from CHS 1 – 8 is 120% of prior maximum.
  - Minimum is 75% of the maximum for each cell.
- Low ranges:
  - Maximum at 0 CHS is 20% of Maximum at CHS 9+.
  - Maximum from CHS 1 – 8 is 120% of prior maximum.
  - Minimum is 30% of the maximum for each cell.

Under the current grid, a number of sentence ranges exceed statutory maximums for some offenses included in the OSL. This means that these are not valid sentences for some cases seen by the court. To address this, **potential recommendation #2** moves some offenses to different seriousness levels and ensures that Class B felonies cannot be higher than OSL 9 and Class C felonies cannot be higher than OSL 5.

**Potential recommendation #3** makes the maximum punishment in a row consistent with the statutory maximums for offenses included in that seriousness level. The result is that all sentence ranges are now valid for all offenses in a seriousness level.

The current grid has a strict cutoff for ranges that are local sanctions (aka jail) and ranges that are state sanctions (aka prison); 17 cells (11%) are local sanctions. With the proposed formula it would expand the number of cells with a potential local sanction, but also introduces the possibility of straddle cells (cells where a local *or* state sanction would be a valid sentence). **Potential recommendation #8** would make the area with sentences shorter than 12 months a separate zone on the grid. This would result in 23 pure local sanction cells and 25 straddle cells.

**Potential recommendation #6** would reduce the minimums in a handful of cells in the lower left (or southwest) corner of the grid to 0.

**Potential recommendation #7** is the alternative to potential rec. #8, which is to eliminate straddle cells. The minimum sentence lengths in certain cells would be 12.03. The result would be 23 pure local sanction cells and 0 straddle cells.

Currently the guideline minimum sentences for Rape 1 and Assault 1 (OSL 12) are much higher than current mandatory minimum sentence (60 months) and the guideline minimum for Sexually Violent Predator-Escape (OSL 10) is below the mandatory minimum sentence (60 months). **Potential recommendation 12/12b** would make the guideline minimum sentence for Assault 1 and Rape 1 (OSL 12 or 13) closer to the mandatory minimum sentence. Sexually Violent Predator escape would need to be increased to OSL 12 to align with mandatory minimum. Aggravated sentences are still allowed for these cases if warranted.

In terms of the amount of change, nine cells would see sentence ranges increase; a handful of cells would have ranges stay the same; most cells would see a decrease. Importantly, however, some of these ranges weren't valid sentences anyway, so it wouldn't necessarily result in as large a decrease in many cells as it appears on paper. The magnitude of the changes varies. Some ranges decrease by <10% while others decrease by >70%. This is a function of applying a consistent formula to a grid that has no consistency in the cell ranges. The average reduction across the grid is 29%.

A member pointed out that sentence ranges that differ a great deal from current ranges might prove politically untenable, especially in the higher OSL levels.

A member noted that a decrease of around a third would fit well with the reported average sentence length issued by judges, which falls at about a third of the range. They expressed support for the idea straddle cells and asked subgroup members if they also supported the idea of straddle cells. All members voiced support for exploring further the idea of straddle cells. Another member stated that judges can arbitrarily issue sentences longer than a year solely to avoid the burden to under-resourced county jails, so this would need consideration. That member also voiced opposition to any increase in the number or length of supervision terms overseen by the Department of Corrections (DOC). Amanda

reminded the group that the first potential recommendation on the grid states that all grid changes are predicated on DOC changing to the iCOACH supervision approach.

Amanda asked the group if it would like the Sentencing Alternatives Workgroup to take up the discussion of straddle cells and the concept of community intermediate sanctions. Members were in support.

**NEXT STEPS & ACTION ITEM**

- Next meeting will begin reviewing and discussing Criminal History Score. Matt Landen with the Office of Financial Management will be joining to give an update on the status of his reach on CHS.
- Future topics: multipliers, aggravators, mitigators, and enhancements.

**COMMENTS SUBMITTED BY GUEST OBSERVERS VIA ZOOM CHAT and/or EMAIL**

None.

**Appendix A. Simulated Grid: Murder 1 minimum 240 (20yrs) @ CHS 0**

	0	1	2	3	4	5	6	7	8	9+												
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life											0.75										
17	240.0	320.0	252.0	336.0	264.6	352.8	277.8	370.4	291.7	389.0	306.3	408.4	321.6	428.8	337.7	450.3	354.6	472.8	372.3	496.4	1.05	
16	104.2	139.0	114.6	152.8	126.1	168.1	138.7	184.9	152.6	203.4	167.8	223.8	184.6	246.2	203.1	270.8	223.4	297.9	297.8	397.0		
15	93.5	124.6	102.8	137.1	113.1	150.8	124.4	165.8	136.8	182.4	150.5	200.7	165.6	220.7	182.1	242.8	200.3	267.1	267.0	356.0		
14	82.7	110.3	91.0	121.3	100.1	133.4	110.1	146.7	121.1	161.4	133.2	177.6	146.5	195.3	161.1	214.8	177.2	236.3	236.3	315.0	0.75	
13	71.9	95.9	79.1	105.5	87.0	116.0	95.7	127.6	105.3	140.4	115.8	154.4	127.4	169.9	140.2	186.9	154.2	205.6	205.5	274.0	41.0	1.1
12	61.2	81.6	67.3	89.7	74.0	98.7	81.4	108.5	89.5	119.4	98.5	131.3	108.4	144.5	119.2	158.9	131.1	174.8	174.8	233.0		0.35
11	50.4	67.2	55.4	73.9	61.0	81.3	67.1	89.4	73.8	98.4	81.2	108.2	89.3	119.0	98.2	131.0	108.0	144.0	144.0	192.0		
10	39.6	52.9	43.6	58.1	48.0	63.9	52.8	70.3	58.0	77.4	63.8	85.1	70.2	93.6	77.2	103.0	85.0	113.3	113.3	151.0		
9	16.0	21.6	19.0	25.9	23.0	31.1	27.0	37.3	33.0	44.8	40.0	53.7	48.0	64.5	58.0	77.4	69.0	92.9	81.0	108.0		0.75
8	14.0	19.0	17.0	22.8	20.0	27.4	24.0	32.8	29.0	39.4	35.0	47.3	42.0	56.7	51.0	68.1	61.0	81.7	71.0	95.0	13.0	1.2
7	12.0	16.4	14.0	19.7	17.0	23.6	21.0	28.3	25.0	34.0	30.0	40.8	36.0	49.0	44.0	58.8	52.0	70.5	61.0	82.0		0.2
6	10.0	13.8	12.0	16.6	14.0	19.9	17.0	23.8	21.0	28.6	25.0	34.3	30.0	41.2	37.0	49.4	44.0	59.3	51.0	69.0		
5	3.2	10.8	3.9	12.96	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		0.3
4	2.7	9.0	3.2	10.80	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	9.0	1.2
3	2.2	7.2	2.6	8.64	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		0.2
2	0.9	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		
1	0.6	2.0	0.9	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																					

**Appendix B. Simulated Grid: Murder 1 minimum 216 (18yrs) @ CHS 0**

	0	1	2	3	4	5	6	7	8	9+												
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life											0.75										
17	216.0	289.0	227.6	303.5	239.0	318.6	250.9	334.6	263.5	351.3	276.6	368.8	290.5	387.3	305.0	406.7	320.2	427.0	336.3	448.3	1.05	
16	104.2	139.0	114.6	152.8	126.1	168.1	138.7	184.9	152.6	203.4	167.8	223.8	184.6	246.2	203.1	270.8	223.4	297.9	297.8	397.0		
15	93.5	124.6	102.8	137.1	113.1	150.8	124.4	165.8	136.8	182.4	150.5	200.7	165.6	220.7	182.1	242.8	200.3	267.1	267.0	356.0		
14	82.7	110.3	91.0	121.3	100.1	133.4	110.1	146.7	121.1	161.4	133.2	177.6	146.5	195.3	161.1	214.8	177.2	236.3	236.3	315.0	0.75	
13	71.9	95.9	79.1	105.5	87.0	116.0	95.7	127.6	105.3	140.4	115.8	154.4	127.4	169.9	140.2	186.9	154.2	205.6	205.5	274.0	41.0	1.1
12	61.2	81.6	67.3	89.7	74.0	98.7	81.4	108.5	89.5	119.4	98.5	131.3	108.4	144.5	119.2	158.9	131.1	174.8	174.8	233.0		0.35
11	50.4	67.2	55.4	73.9	61.0	81.3	67.1	89.4	73.8	98.4	81.2	108.2	89.3	119.0	98.2	131.0	108.0	144.0	144.0	192.0		
10	39.6	52.9	43.6	58.1	48.0	63.9	52.8	70.3	58.0	77.4	63.8	85.1	70.2	93.6	77.2	103.0	85.0	113.3	113.3	151.0		
9	16.0	21.6	19.0	25.9	23.0	31.1	27.0	37.3	33.0	44.8	40.0	53.7	48.0	64.5	58.0	77.4	69.0	92.9	81.0	108.0		0.75
8	14.0	19.0	17.0	22.8	20.0	27.4	24.0	32.8	29.0	39.4	35.0	47.3	42.0	56.7	51.0	68.1	61.0	81.7	71.0	95.0	13.0	1.2
7	12.0	16.4	14.0	19.7	17.0	23.6	21.0	28.3	25.0	34.0	30.0	40.8	36.0	49.0	44.0	58.8	52.0	70.5	61.0	82.0		0.2
6	10.0	13.8	12.0	16.6	14.0	19.9	17.0	23.8	21.0	28.6	25.0	34.3	30.0	41.2	37.0	49.4	44.0	59.3	51.0	69.0		
5	3.2	10.8	3.9	12.96	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		0.3
4	2.7	9.0	3.2	10.80	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	9.0	1.2
3	2.2	7.2	2.6	8.64	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		0.2
2	0.9	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		
1	0.6	2.0	0.9	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																					

**Appendix B. Simulated Grid: Murder 1 minimum 180 (15yrs) @ CHS 0**

	0	1	2	3	4	5	6	7	8	9+												
<b>18</b>	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life												0.75									
<b>17</b>	180.0	240.0	189.0	252.0	198.5	264.6	208.4	277.8	218.8	291.7	229.7	306.3	241.2	321.6	253.3	337.7	265.9	354.6	279.2	372.3		1.05
<b>16</b>	104.2	139.0	114.6	152.8	126.1	168.1	138.7	184.9	152.6	203.4	167.8	223.8	184.6	246.2	203.1	270.8	223.4	297.9	297.8	397.0		
<b>15</b>	93.5	124.6	102.8	137.1	113.1	150.8	124.4	165.8	136.8	182.4	150.5	200.7	165.6	220.7	182.1	242.8	200.3	267.1	267.0	356.0		
<b>14</b>	82.7	110.3	91.0	121.3	100.1	133.4	110.1	146.7	121.1	161.4	133.2	177.6	146.5	195.3	161.1	214.8	177.2	236.3	236.3	315.0		
<b>13</b>	71.9	95.9	79.1	105.5	87.0	116.0	95.7	127.6	105.3	140.4	115.8	154.4	127.4	169.9	140.2	186.9	154.2	205.6	205.5	274.0	41.0	0.75
<b>12</b>	61.2	81.6	67.3	89.7	74.0	98.7	81.4	108.5	89.5	119.4	98.5	131.3	108.4	144.5	119.2	158.9	131.1	174.8	174.8	233.0		0.35
<b>11</b>	50.4	67.2	55.4	73.9	61.0	81.3	67.1	89.4	73.8	98.4	81.2	108.2	89.3	119.0	98.2	131.0	108.0	144.0	144.0	192.0		
<b>10</b>	39.6	52.9	43.6	58.1	48.0	63.9	52.8	70.3	58.0	77.4	63.8	85.1	70.2	93.6	77.2	103.0	85.0	113.3	113.3	151.0		
<b>9</b>	16.0	21.6	19.0	25.9	23.0	31.1	27.0	37.3	33.0	44.8	40.0	53.7	48.0	64.5	58.0	77.4	69.0	92.9	81.0	108.0		0.75
<b>8</b>	14.0	19.0	17.0	22.8	20.0	27.4	24.0	32.8	29.0	39.4	35.0	47.3	42.0	56.7	51.0	68.1	61.0	81.7	71.0	95.0	13.0	1.2
<b>7</b>	12.0	16.4	14.0	19.7	17.0	23.6	21.0	28.3	25.0	34.0	30.0	40.8	36.0	49.0	44.0	58.8	52.0	70.5	61.0	82.0		0.2
<b>6</b>	10.0	13.8	12.0	16.6	14.0	19.9	17.0	23.8	21.0	28.6	25.0	34.3	30.0	41.2	37.0	49.4	44.0	59.3	51.0	69.0		
<b>5</b>	3.2	10.8	3.9	12.96	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		0.3
<b>4</b>	2.7	9.0	3.2	10.80	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	9.0	1.2
<b>3</b>	2.2	7.2	2.6	8.64	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		0.2
<b>2</b>	0.9	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		
<b>1</b>	0.6	2.0	0.9	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		
Inr	0 - 365 days																					