

**Washington State Criminal Sentencing Task Force
Sentencing Alternatives Workgroup
Meeting Notes: May 3rd, 2022
Meeting via Zoom**

ATTENDEES

Task Force Members/Alternates:

- Nick Allen, *Interests of Incarcerated Persons*
- Keri-Anne Jetzer, (Alt. for Judge St. Clair), *Sentencing Guidelines Commission*
- Mac Pevey, *Department of Corrections (DOC)*
- Clela Steelhammer (research & data support), *Caseload Forecast Council*
- Judge Saint Clair, *Sentencing Guidelines Commission*
- Jon Tunheim, *WA Association of Prosecuting Attorneys*

Guests: Heidi Brodt, Bruce Glant, Katelyn Kelley

Ruckelshaus Center: Molly Stenovec, Amanda Murphy, Maggie Counihan, Chris Page

Research: Dr. Lauren Knoth-Peterson, Washington State Institute for Public Policy (WSIPP)

Meeting Purpose:

- Discuss Community Intermediate Sanctions and county restrictive sanctions.

Welcome & Agenda Review

Facilitator Amanda Murphy welcomed everyone and reminded the group of the previous meeting's conversation about first time offense waiver (FTOW). Today's meeting will focus on Community Intermediate Sanctions (CIS) which the group has discussed previously and is an idea modeled after Pennsylvania's County Intermediate Punishment (CIP) program.

Community Intermediate Sanctions

Dr. Knoth-Peterson provided an overview of potential recommendations presented on CIS, reminded the group of previous potential recommendations the workgroup had discussed, and explained that intermediate sanctions can be used effectively in place of incarceration.

Potential Recommendation 7: *If maximum sentence based on the formula if 12 months or less, the minimum is automatically reduced to zero.*

Lauren reviewed the effects, justifications, and previous discussions related to the potential recommendation. She also noted that without any alternative to incarceration such as probation, judges may not issue a sentence at or near zero months.

Potential Recommendation 8: *Eliminate 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.*

Lauren reviewed the effects and justifications of this proposal too, noting it would eliminate straddle cells, creates variability in the width of ranges, and creates more predictability in

caseloads for local and state facilities along with predictability on whether a defendant would face a jail or prison sentence.

Potential recommendation 9: 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.*

She again reviewed potential effects, justifications, and possible concerns including potential for disparity geographically or in who gets the alternative along with the potential for large reduction in sentence lengths.

The workgroup reviewed a visual display of the sentencing grid with multiple zones layered on top to show how the sentencing alternatives would fit. The Task Force could recommend having a county intermediate sanctions program and a state intermediate sanctions program or only have a local intermediate sanctions program.

The term “intermediate sanction” refers to a variety of sentencing options that fall between probation and incarceration. Some examples include:

- Intensive supervision probation
- Day reporting centers
- House arrest
- Electronic home monitoring
- Community service
- Intermittent confinement (e.g., work release or weekenders)
- Mandatory treatment conditions
- Residential community corrections (e.g., halfway houses)

She noted that research on intermediate sanctions is pretty high quality, and shows good results (i.e., reduces recidivism), e.g., electronic home monitoring is cost effective and works; intensive supervision (surveillance AND treatment) is also cost effective and produces good outcomes.

People can look at the WSIPP website for more detail on some of the intermediate sanctions and a cost-benefit analysis.

How Sentencing Alternatives could Integrate to the Grid

	0	1	2	3	4	5	6	7	8	9+											
XVI	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																				
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	
Zone 3: PDOSA, FOSA, State Prison	XII	93	123	102	136	111	147	120	160	129	171	138	184	162	216	178	236	209	277	240	318
Zone 2: CRS, DOSA, FOSA, State Prison	XI	78	102	86	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
Zone 1: CIS, RDOSA, PDOSA, FOSA, State Prison	X	51	68	57	75	62	82	67	89	72	96	77	102	98	130	108	144	129	171	149	198
Unr	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																			

CIS: County Intermediate Sanctions. Sentences less than 2 years may be served in a county intermediate sanctions program administered by the local court.
 CRS: County Restrictive Sanctions. Up to 50% of the individuals sentence may be served in a county intermediate sanctions program administered by the local court.
 RDOSA: Residential DOSA, for eligible individuals based on offense type and criminal history
 PDOSA: Prison DOSA, for eligible individuals based on offense type and criminal history
 FOSA: Parenting Sentencing Alternative, for eligible individuals
 Cells in the hatched zone may be eligible for the FTOW sentencing alternative.

Q&A

- A member asked for clarification on the zones.
 - The alternatives have not been placed on the new simulated grid; on the current grid the zones are not as aligned.
- Is there data on the Juvenile Block Grant and how it impacts individuals?
 - Juvenile courts have a menu of options to choose from, that they get support from the state to train leaders and implement, intended to support juveniles in rehabilitation. State oversight means:
 - an annual report gets produced including programs, number of participants, and costs, and
 - all programs and services must be evidence-based (WSIPP evaluated juvenile block grant programs and found, for example, that aggression replacement therapy proved ineffective at reducing recidivism).
- Has the existence of the block grant program helped reduce disproportionality? What would it look like in WA state if it was extended to the adult system?
 - As far as racial disproportionality and who's getting access, the intent is not to fund the probation itself... all the youth on probation get an assessment that determines their eligibility for programs. The juvenile probation counselors must decide if a juvenile will go into the program. Reasons why a youth doesn't go to a program might be:
 - because it doesn't exist in their county,
 - they are involved in too many extra curriculars, or
 - parents don't allow it.

- It's good that we are talking about community intermediate sanctions. Would it be centralized or decentralized? Depending on the county, 24-40% of individuals under jurisdiction are not from the county of conviction and sentencing, so if a person is tied to a community because of where they committed the crime, it could create additional barriers. There must be a quality assurance component with whatever we do: beneficial outcomes should be measured, and we don't want unintended impacts or consequences.
- I am intrigued at the idea of moving some options of supervision to the local level. That approach seems to be one of the only viable ways to reduce prison populations.
- Is there an opportunity to tweak the juvenile block grant a bit to create a sentencing alternative for emerging adults?
 - You could set up overarching things that an approved intermediate sanctions program should have. That could be a guiding framework for counties to draw on.
- I appreciate the need for quality assurance model. Racial disproportionality arises from lots of areas and often shows up in the criminal legal system. We also need to be aware that assessments can have a bias by those who created them.
- We could base the tiers on seriousness level and not a risk assessment, or on a needs assessment instead of risk.

Amanda asked the group how they would like to move forward. Lauren asked if it would be helpful to provide questions for what would need to be answered for the framework, e.g., "Are we looking to provide a fully developed idea of what CIS would look like? Or providing a framework and have others tasked with creating it?"

- A member said they see it as an iterative process since the Statistical Analysis Center's criminal history research will not be available before the Task Force is finished.
- Another member said that they think the group should move forward on a concept or vision of what CIS should look like and that Lauren's framework is a good place to start.
- How do the earlier conversations about expanding eligibility by examining the statutory eligibility requirements fit into this—can those recommendations be merged into this?
 - Yes, we can pull previous conversations on alternatives and eligibility into this proposal for you all to present to the Task Force.

Next meeting – May 17th at 1:30pm

Action Items:

- Facilitation team will work with Dr. Knoth-Peterson on a framework/concept paper to bring back to the workgroup to discuss and then talk with the full Task Force in June.

APPENDIX A: COMMENTS AND QUESTIONS SUBMITTED BY PUBLIC VIA ZOOM CHAT

Due to limited time, the public may submit questions or comments via the zoom chat (or email) and the Facilitation Team includes with the meeting notes. The following questions and comments were sent during this meeting:

Bruce Glant: Is risk based on static 99?