

Washington State Criminal Sentencing Task Force

## Detailed Guide to Potential Recommendations

### Part 1. Vertical Axis Components of the Sentencing Grid

*Draft 11.4.21*

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- **Potential Recommendation 1**.....pg 30

The current supervision model based on surveillance is insufficient, and changes to the grid are based on a broader paradigm shift focused on providing the appropriate treatment and resources for individuals placed in state custody. To sufficiently achieve those goals, changes to the grid must include concurrent changes to the DOC community custody approach to fully adopt the i-COACH model or to adopt a separate form of Community Reentry.

- **Potential Recommendation 2**.....pg 32

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.”

- **Potential Recommendation 3**.....pg 36

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.

- **Potential Recommendation 4**.....pg 39

Establish a sunset committee that reviews offenses that have not been sentenced in the last 5-10-20 years for potential elimination from the criminal code.

- **Potential Recommendation 5**.....pg 40

Require ongoing monitoring and larger, more in-depth statistical reviews after the first few years.

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## **SECTION 4: Potential Recommendations 6-9..... pg 41**

- **Potential Recommendation 6.....pg 45**

Establish a formula for determining grid cell ranges for OSLs 1-5. Create the grid ranges for OSLs 1 – 5 using 54 as the anchor for the most serious maximum punishment for OSL 9, CHS 9+.

- **Potential Recommendation 7.....pg 56**

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

- **Potential Recommendation 8.....pg 59**

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.

- **Potential Recommendation 9.....pg 61**

Keep Straddle Cells and 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

## **SECTION 5: Potential Recommendations 10-13.....pg 64**

- **Potential Recommendation 10.....pg 66**

Eliminate the mandatory minimum for Murder 1.

- **Potential Recommendation 11.....pg 67**

For aggravated murder 1 change the language from:

“Life sentence without parole/death penalty for individuals at or over the age of eighteen. For individuals under the age of eighteen, a term of twenty-five years to life.”

To

“Life sentence without parole/death penalty for individuals at or over the age of twenty-five. For individuals under the age of twenty-five, a term of twenty-five years to life.”

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- **Potential Recommendation 12**.....pg 68

For all sentences longer than 20 years, require a second chance review at 20 years of incarceration with the presumption of release.

- **Potential Recommendation 13**.....pg 69/73

Increase the number of seriousness levels from 16 to 18 whereby:

- OSL 18 is Aggravated Murder with a range of 25 to life regardless of Criminal History Score (as it currently is in SL 16)
- OSL 17 is Murder 1 and Homicide by Abuse with current ranges for Murder 1
- OSL 16 is Murder 2 with current maximums, but minimums made consistent at 50% of the maximum.
- OSL 15 to 10 are as classified currently except for the offenses pulled out above. The formula is used starting at OSL 16.

- **Potential Recommendation 13a**.....pg 76

Move Trafficking 1 to OSL 15 with Malicious Explosion of a Substance 1. Move all other offenses up one OSL.

- **Potential Recommendation 13b**.....pg 80

Collapse the ranges for Murder 1 for Criminal History Scores 0-4 and 5-9+.

## **SECTION 6: Potential Recommendations 14**.....pg 82

- **Potential Recommendation 14**.....pg 85

Establish a formula for determining grid cell ranges for OSLs 6-9. Create the grid ranges for OSLs 6 – 9 using 108 as the anchor for the most serious maximum punishment for OSL 9, CHS 9+.

# Section 1

Background and Key  
Information about Washington's  
Adult Felony Sentencing Grid

- Washington’s current felony sentencing guidelines grid consists of **offense seriousness level** (vertical axis) and **criminal history score** (horizontal axis).
- The rows on the grid represent different **Offense Seriousness Levels (OSLs)** and range from 1 to 16. Higher OSLs correspond with longer sentence lengths.
- The columns represent different **criminal history scores** and range from 0 to 9 or more. Criminal history scores are determined using a complex calculation (see Appendix...).
- All felonies have a “class”: Class A, Class B, Class C. The class of an offense drops to a class lower if it is an **anticipatory** (attempt, conspiracy, or solicitation) offense, with a few exceptions.

		Criminal history score (CHS)									
		0	1	2	3	4	5	6	7	8	9+
Offense seriousness level (SL)	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	280 m	291.5 m	304 m	316 m	327.5 m	339.5 m	364 m	394 m	431.5 m	479.5 m
		240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	312 - 416	338 - 450	370 - 493	411 - 548
	XIV	171.5 m	184 m	194 m	204 m	215 m	225 m	245 m	266 m	307 m	347.5 m
		123 - 220	134 - 234	144 - 244	154 - 254	165 - 265	175 - 275	195 - 295	216 - 316	257 - 357	298 - 397
	XIII	143.5 m	156 m	168 m	179.5 m	192 m	204 m	227.5 m	252 m	299.5 m	347.5 m
		123 - 164	134 - 178	144 - 192	154 - 205	165 - 219	175 - 233	195 - 260	216 - 288	257 - 342	298 - 397
	XII	108 m	119 m	129 m	140 m	150 m	161 m	189 m	207 m	243 m	279 m
		93 - 123	102 - 136	111 - 147	120 - 160	129 - 171	138 - 184	162 - 216	178 - 236	209 - 277	240 - 318
	XI	90 m	100 m	110 m	119 m	129 m	139 m	170 m	185 m	215 m	245 m
		78 - 102	86 - 114	95 - 125	102 - 136	111 - 147	120 - 158	146 - 194	159 - 211	185 - 245	210 - 280
	X	59.5 m	66 m	72 m	78 m	84 m	89.5 m	114 m	126 m	150 m	230.5 m
		51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
	IX	36 m	42 m	47.5 m	53.5 m	59.5 m	66 m	89.5 m	101.5 m	126 m	150 m
		31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
	VIII	24 m	30 m	36 m	42 m	47.5 m	53.5 m	78 m	89.5 m	101.5 m	126 m
	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144	
VII	17.5 m	24 m	30 m	36 m	42 m	47.5 m	66 m	78 m	89.5 m	101.5 m	
	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116	
VI	13m	18m	2y	2y 6m	3y	3y 6m	4y 6m	5y 6m	6y 6m	7y 6m	
	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102	
V	9m	13m	15m	17.5 m	25.5 m	38 m	47.5 m	59.5 m	72 m	84 m	
	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96	
IV	6m	9m	13m	15m	17.5 m	25.5 m	38 m	50 m	61.5 m	73.5 m	
	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84	
III	2m	5m	8m	11m	14m	19.5 m	25.5 m	38 m	50 m	59.5 m	
	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68	
II		4m	6m	8m	13m	16m	19.5 m	25.5 m	38 m	50 m	
	0 - 90 days	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57	
I			3m	4m	5.5m	8m	13m	16m	19.5 m	25.5 m	
	0 - 60 days	0 - 90 days	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	

	Criminal history score (CHS)									
	0	1	2	3	4	5	6	7	8	9+
15	22	3	5	3	6	2	4	1	1	4
14	24	4	9	3	6	2	3	2	4	3
13	--	--	--	--	--	--	--	--	--	1
12	40	6	15	13	6	6	2	2	2	21
11	22	6	6	10	4	2	2	--	1	5
10	17	--	--	6	1	3	5	1	1	13
9	49	21	35	18	26	22	10	9	6	40
8	17	9	6	9	2	5	10	1	1	4
7	58	28	30	73	34	33	41	25	15	119
6	42	20	20	33	10	8	19	4	6	37
5	142	52	78	90	94	79	72	58	45	192
4	583	322	244	243	184	131	125	75	60	307
3	1,214	748	558	351	293	276	188	158	108	428
2	633	291	206	160	125	121	129	98	96	483
1	939	515	256	237	243	183	106	103	98	413
Unranked	2,526									

FY 2019 Number  
of Sentences, by  
Grid Cell

# STANDARD, NON-DRUG AVERAGE SENTENCES AND RANGE OF SENTENCES

Offense seriousness level (SL)	Criminal history score (CHS)																			
	0		1		2		3		4		5		6		7		8		9+	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
15	275.8		240.0		303.5		228.0		374.0		276.0		416.0		360.0		420.0		400.0	
	180.0	320.0	240.0	240.0	271.0	336.0	228.0	228.0	374.0	374.0	276.0	276.0	416.0	416.0	360.0	360.0	420.0	420.0	400.0	400.0
14	175.3		134.0		217.0		184.0		192.0				231.0		300.0				397.0	
	92.3	220.0	134.0	134.0	194.0	240.0	154.0	214.0	165.0	231.0			231.0	231.0	300.0	300.0			397.0	397.0
13																			397.0	
																			397.0	397.0
12	93.1		95.0		113.9				169.5		138.0				178.0					
	69.8	120.0	78.0	120.0	83.3	129.0			168.0	171.0	138.0	138.0			178.0	178.0				
11	84.7		102.5		109.5		111.0		128.0				146.0				204.0			
	78.0	95.0	90.0	114.0	95.0	125.0	102.0	120.0	120.0	144.0			146.0	146.0			204.0	204.0		
10	58.3						73.5		96.0				98.0							
	55.0	60.0					67.0	80.0	96.0	96.0			98.0	98.0						
9	33.6		38.5		45.1		48.3		55.2		60.7		84.8		94.8		112.0		135.5	
	23.25	41	30	48	33	54	34.5	61	51	68	42.75	75	77	102	81	116	108	120	96.75	171
8	23.6		28.9		36.0		41.4		52.0		56.3		78.0		60.0		101.5		121.3	
	15.8	27.0	19.5	34.0	31.0	41.0	29.0	48.0	52.0	52.0	54.0	60.0	67.0	89.0	60.0	60.0	101.5	101.5	100.0	144.0
7	17.0		22.4		26.9		33.9		41.4		44.1		60.8		72.3		85.1		96.7	
	12.0	20.0	16.0	27.0	20.0	34.0	23.3	41.0	27.0	48.0	35.0	54.0	42.8	75.0	57.0	89.0	57.8	102.0	60.0	116.0
6	13.0		15.7		22.3		29.5		36.0		40.8		50.0		57.0		69.5		83.4	
	12.0	14.0	11.3	20.0	21.0	27.0	19.5	36.0	31.0	41.0	36.0	48.0	46.0	61.0	57.0	57.0	69.0	70.0	60.0	102.0
5	8.2		12.3		14.2		16.3		23.9		34.8		42.7		52.6		64.2		64.2	
	6.0	12.0	9.0	14.0	10.0	17.0	15.0	20.0	22.0	29.0	33.0	43.0	41.0	50.0	51.0	60.0	60.0	82.0	60.0	96.0
4	4.9		7.5		12.4		14.0		15.9		23.9		35.6		45.9		57.8		70.3	
	2.3	9.0	4.5	12.0	9.0	14.0	9.8	17.0	11.3	20.0	16.5	29.0	24.8	60.0	32.3	57.0	44.0	70.0	47.3	84.0
3	1.7		4.0		5.5		9.6		12.9		18.3		23.9		35.1		46.6		54.7	
	0.8	3.2	2.3	8.0	3.0	12.0	6.8	14.0	9.0	24.0	13.0	22.0	16.5	29.0	24.8	43.0	32.3	57.0	38.3	68.0
2	1.1		2.8		4.0		5.4		12.1		14.8		17.8		23.4		34.5		45.4	
	0.0	4.7	0.5	9.0	2.3	9.0	3.0	12.0	9.0	14.0	10.5	18.0	16.0	22.0	17.0	29.0	24.8	43.0	32.3	57.0
1	0.8		1.1		2.5		2.9		4.1		5.8		12.5		14.9		17.9		24.8	
	0.0	2.0	0.0	3.0	2.0	12.0	2.0	6.0	3.0	9.3	3.0	12.0	12.0	14.0	14.0	18.0	17.0	22.0	22.0	29.0

Washington State RCWs include several different offense classifications.

The table here and on the next three pages provide comparisons of the six different classifications including felony class, offense seriousness level, serious violent offenses, violent offenses, sex offenses, and crimes against persons.

- Examining Washington State's Sentencing Guidelines: A Report to the Criminal Sentencing Task Force (Washington State Institute for Public Policy), May 2021

Offense description	Class	SL	Serious violent offense	Violent offense	Sex offense	Crimes against persons
			RCW	RCW	RCW	RCW
			9.94A.030	9.94A.030	9.94A.030	9.94A.411
Aggravated murder 1	A	16	X	X		X
Homicide by abuse	A	15	X	X		
Malicious explosion 1	A	15		X		
Murder 1	A	15	X	X		X
Murder 2	A	14	X	X		X
Trafficking 1st degree	A	14		X		
Malicious explosion 2	A	13		X		
Malicious placement of explosives 1	A	13		X		
Assault 1	A	12	X	X		X
Assault of a child 1	A	12	X	X		X
Commer sex abuse a minor - promote	A	12		X	X	
Rape 1	A	12	X	X	X	X
Rape of a child 1	A	12		X	X	X
Trafficking 2nd degree	A	12		X		
Malicious placement of imitation device 1	B	12				
Manslaughter 1	A	11	X	X		X
Rape 2	A	11		X	X	X
Rape of a child 2	A	11		X	X	X
Vehicular homicide - drunk	A	11		X		X
Vehicular homicide - reckless	A	11		X		X
Child molest 1	A	10		X	X	X
Indecent liberties with force	A	10		X	X	X
Kidnapping 1	A	10	X	X		X
Leading organized crime	A	10		X		
Sexually violent predator escape	A	10		X		
Criminal mistreatment 1	B	10				X
Malicious explosion 3	B	10				

Offense description	Class	SL	Violent	Sex	Crimes
			offense RCW 9.94A.030	offense RCW 9.94A.030	offense RCW 9.94A.411
Explosive devices prohibited	A	9	X		
Homicide by watercraft-drunk	A	9	X		
Robbery 1	A	9	X		X
Abandon dependent persons 1	B	9			
Assault of a child 2	B	9	X		X
Controlled substance homicide	B	9*			
Hit and run - death	B	9			
Inciting criminal profiteering	B	9			
Malicious placement of explosives 2	B	9			
Sexual exploitation of a minor	B	9	X	X	
Arson 1	A	8	X		X
Homicide by watercraft-reckless	A	8	X		
Commer sex abuse a minor	B	8		X	
Manslaughter 2	B	8	X		X
Promoting prostitution 1	B	8			X
Theft of anhydrous ammonia	C	8			
Burglary 1	A	7	X		X
Homicide by watercraft-disregard safety	A	7	X		
Use machine gun or bump-fire stock in commission of a felony	A	7	X		
Vehicular homicide - disregard safety of others*	A	7			X
Child molest 2	B	7		X	X
Civil disorder training	B	7			
Dealing depictions of a minor 1st degree	B	7		X	
Drive-by-shooting	B	7	X		
False reporting 1 (effective 6/11/2020)	B	7			
Indecent liberties w/o force	B	7		X	X
Introducing contraband 1	B	7			
Malicious placement of explosives 3	B	7			
Negligently causing death by use of a signal preemption device	B	7			
Send/bring sexual depictions of minor 1st degree	B	7		X	
Unlawful possession of firearm 1	B	7			
Air bag diagnostic systems (causing bodily injury or death)	C	7			
Air bag replacement requirements (causing bodily injury or death)	C	7			
Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed airbag (causing bodily injury or death)	C	7			
Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (causing bodily injury or death)	C	7			

Offense description	Class	SL	Violent	Sex	Crimes
			offense RCW 9.94A.030	offense RCW 9.94A.030	offense RCW 9.94A.411
Bail jump with murder 1	A	6	X		
Bribery	B	6			
Incest 1	B	6		X	X
Intimidating a judge	B	6			
Intimidating a juror	B	6			X
Intimidating a witness	B	6			X
Poss of depiction of minor 1st degree	B	6		X	
Theft from a vulnerable adult 1	B	6			X
Theft of a firearm	B	6			
Malicious placement of imitation device 2	C	6			
Rape of a child 3	C	6		X	X
Unlawful storage of anhydrous ammonia	C	6			
Kidnapping 2, sexual motivation	A	5	X	X	X
Advancing money - extortionate credit	B	5			
Bail jump with class a	B	5			
Dealing depictions of a minor 2nd degree	B	5		X	
Extortion 1	B	5	X		X
Extortionate extensions of credit	B	5			
Extortionate means to collect	B	5			
Kidnapping 2	B	5	X		X
Perjury 1	B	5			
Poss of a stolen firearm	B	5			
Rendering criminal assistance 1	B	5			
Send/bring sexual depictions of minor 2nd degree	B	5		X	
Stalking	B	5			X
Taking motor vehicle without permission 1	B	5			
Abandon dependent persons 2	C	5			
Air bag diagnostic systems	C	5			
Air bag replacement requirements	C	5			
Child molest 3	C	5		X	X
Criminal mistreatment 2	C	5			X
Custodial sexual misconduct 1	C	5		X	
Domestic violence court order violation	C	5			X
Driving under the influence (felony) (7/1/2007-7/22/2017)	C	5			X
Incest 2	C	5		X	X
Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed airbag	C	5			
Persistent prison misbehavior	C	5			
Physical control vehicle under the influence (felony)(7/1/2007-7/22/2017)	C	5			X
Rape 3	C	5		X	X
Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag	C	5			
Sexual misconduct 1	C	5		X	
Sexually violate human remains	C	5		X	

Offense description	Class	SL	Serious violent offense	Violent offense	Sex offense	Crimes against persons
			RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.411
Assault 2, sexual motivation	A	4		X	X	X
Arson 2	B	4		X		
Assault 2	B	4		X		X
Assault by watercraft	B	4				
Bribe received by witness	B	4				
Bribing a witness	B	4				
Commercial bribery	B	4				
Driving under the influence (felony) (post 07/23/2017)	B	4				X
Endangerment with a controlled substance	B	4				
Escape 1	B	4				
Identity theft 1	B	4				X
Poss of depiction of minors 2nd degree (post 07/23/2017)	B	4			X	
Residential burglary	B	4				
Robbery 2	B	4		X		X
Theft of livestock 1	B	4				
Threats to bomb	B	4				X
Trafficking in stolen property 1	B	4				
Unlawful factoring credit/pay card transaction-2nd	B	4				
Unlawful transaction of health coverage as a health care service contractor	B	4				
Unlawful transaction of health coverage as a health maintenance organization	B	4				
Unlawful transaction of insurance business	B	4				
Unlawful practice as an insurance professional	B	4				
Use of proceeds of criminal profiteering	B	4				
Vehicular assault under infl/reckless	B	4		X		X
View depiction of minor engaged sex conduct 1st degree	B	4			X	
Willfully failure return from furlough	B	4				
Assault 4 (3rd domestic violent offense)	C	4				X
Assault 3 (peace officer w/projectile stun gun)	C	4				
Cheating 1	C	4				
Counterfeit - endanger public health/ safety	C	4				X
Hate crime (previously malicious harassment)	C	4				
Hit and run - injury	C	4				
Hit and run w/vessel	C	4				
Indecent exposure	C	4				X
Influencing outcome of sporting event	C	4				
Physical control vehicle under the influence (felony) post (07/23/17)	C	4				X
Vehicle prowl 2 (3rd or subs)	C	4				

Offense description	Class	SL	Serious violent offense	Violent offense	Sex offense	Crimes against persons
			RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.411
Burglary 2 (nondwelling)	B	3				
Incendiary devices	B	3				
Intimidating a public servant	B	3				X
Malicious injury to railroad property	B	3				
Mortgage fraud	B	3				
Negligently causing substantial bodily harm by use of a signal preemption device	B	3				
Organized retail theft 1	B	3				
Retail theft with extenuating circumstances 1	B	3				
Security act violation	B	3				
Theft w/ intent - resell 1	B	3				
Unlawful trafficking fish or wildlife - 1	B	3				
Vehicular assault disregard safety	B	3				X
Willfully failure return from work release	B	3				
Animal cruelty 1 - sex/conduct	C	3				
Assault 3 (not a peace officer w/projectile stun gun)	C	3				X
Assault of a child 3	C	3				X
Bail jump with class b or c	C	3				
Communication with a minor	C	3				X
Criminal gang intimidation	C	3				
Custodial assault	C	3				X
Cyberstalking	C	3				
Escape 2	C	3				
Extortion 2	C	3				X
False reporting 2 (effective 6/11/2020)	C	3				
Harassment	C	3				
Introducing contraband 2	C	3				
Manufacture of untraceable firearm with intent to sell	C	3				
Manufacture or assembly of an undetectable or untraceable firearm	C	3				
Perjury 2	C	3				
Possession of machine gun, bump-fire stock, undetectable firearm or short barrel shotgun or rifle	C	3				
Promoting prostitution 2	C	3				
Tampering with a witness	C	3				
Telephone harassment	C	3				
Theft of livestock 2	C	3				
Trafficking in stolen property 2	C	3				
Unlawful hunting big game - 1st	C	3				
Unlawful imprisonment	C	3				X
Unlawful misbranding of fish or shellfish 1	C	3				
Unlawful possession of firearm 2	C	3				
Unlawful taking of endangered fish or wildlife 1	C	3				
Unlawful use of a nondesignated vessel	C	3				

Offense description	Class	SL	Serious violent offense	Violent offense	Sex offense	Crimes against persons
			RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.411
Failure to register as sex offender 3+	B	2			X	
Malicious mischief 1	B	2				
Possession of stolen property 1	B	2				
Possession of stolen vehicle	B	2				
Theft 1	B	2				
Theft of motor vehicle	B	2				
Theft of rental or leased property (>\$5,000)	B	2				
Commercial fishing without a license	C	2				
Computer trespass 1	C	2				
Counterfeit - 3rd conviction and >\$10,000	C	2				
Electronic data service interference	C	2				
Electronic data tampering 1	C	2				
Electronic data theft	C	2				
Engaging in fish dealing activity	C	2				
Escape from community custody	C	2				
Failure to register as sex offender 2+	C	2			X	
False claims - health care	C	2				
Identity theft 2	C	2				X
Insurance claims trafficking subseq off	C	2				
Organized retail theft 2	C	2				
Practice of law unlawfully	C	2				
Practice of profession w/o license	C	2				
Retail theft with extenuating circumstances 2	C	2				
Scrap processing, recycling, or supplying without a license	C	2				
Theft with intent to resell 2	C	2				
Unlawful factoring credit/pay card transaction-1st	C	2				
Unlawful obtain financial info	C	2				
Unlawful participation of non-Indians in Indian fishery	C	2				
Unlawful trafficking fish or wildlife - 2	C	2				
Voyeurism 1	C	2			X	

Offense description	Class	SL	Serious violent offense	Violent offense	Sex offense	Crimes against persons
			RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.030	RCW 9.94A.411
False verification for welfare	B	1				
Transaction of insurance business beyond scope of licensure	B	1				
Attempting to elude pursuing police vehicle	C	1				
Food stamps - trafficking	C	1				
Food stamps - unlawful use	C	1				
Forgery	C	1				
Fraudulent creation or revocation of a mental health advance directive	C	1				
Malicious mischief 2	C	1				
Mineral trespass	C	1				
Possession of stolen property 2	C	1				
Reckless burning 1	C	1				
Spotlighting big game 1	C	1				
Taking motor vehicle without permission 2	C	1				
Theft 2	C	1				
Theft from a vulnerable adult 2	C	1				X
Theft of rental or leased property (\$750-\$5,000)	C	1				
Unlawful fish and shellfish catch accounting	C	1				
Unlawful issuance of checks or drafts	C	1				
Unlawful possession of a personal identification device	C	1				
Unlawful possession of fictitious identification	C	1				
Unlawful possession of payment instruments	C	1				
Unlawful possession of instruments for financial fraud	C	1				
Unlawful production of payment instruments	C	1				
Unlawful releasing, planting, possessing, or placing deleterious exotic wildlife	C	1				
Unlawful use of a net to take fish 1	C	1				
Unlawful use of prohibited aquatic animal species (repealed 2014)	C	1				
Vehicle prowl 1	C	1				
Violating commercial fishing area	C	1				
Violation of suspension of department privileges 1	C	1				

# Unranked Offenses

- More than 300 offenses (the majority of felony offenses) remain unranked (not assigned an OSL).
- There are A, B, and C class felonies that are unranked.
- Regardless of an individual's criminal history score, **unranked offenses** have a presumptive sentence range is 0 – 12 months of incarceration.
- Sentences for unranked offenses are not integrated into the sentencing guidelines grid.

In June 2021, the Legislature Tasked the Sentencing Guidelines Commission with undertaking a review of the criminal code in three specific areas, to support the ongoing work of the Criminal Sentencing Task Force and in response to recommendations made by the Task Force in its 2020 Report.

1. To examine “unranked” felony offenses and make recommendations as to which of those offenses should be ranked on the adult felony sentencing grid, and which offenses could be advisably repealed.
2. To develop a proposal to move statutes that specifically prescribe felony criminal penalties from the Uniform Controlled Substances Act, Chapter 69.50 RCW, into the Sentencing Reform Act (“SRA”), Chapter 9.94A RCW. This proposal should also include a review of sentences for drug offenses and recommendations to reduce the reliance on punitive sanctions and to restructure outcomes to prioritize a therapeutic model for associated drug offenses.
3. To develop a proposal to consolidate any other criminal statutes that specifically prescribe felony criminal penalties into the SRA, Chapter 9.94A RCW.

# Key Presentations to the Task Force

There have been a number of presentations given at Task Force meetings over the last two years.

The purpose and goal of these presentations was to build a common foundation of understanding of WA's felony sentencing system and the sentencing grid. And to help prepare for the indebt technical and detailed discussions about the sentencing grid.

Here are links to those presentations:

- [SRA Overview](#) and elements that impact sentence lengths – prepared by Caseload Forecast Council
- [Sentencing Guidelines presentation](#) – prepared by Lauren Knoth, Washington State Institute for Public Policy
- [History of the Sentencing Reform Act](#)– presentation prepared by Keri-Anne Jetzer, Sentencing Guidelines Commission
- [Washington Felony Sentencing Provisions 1990-2018](#)– timeline prepared by Sentencing Guidelines Commission

# WSIPP Report to the Task Force

## **Examining Washington State's Sentencing Guidelines: A Report to the Criminal Sentencing Task Force (Washington State Institute for Public Policy), May 2021**

- [Presentation](#) by Lauren Knoth, (Washington State Institute for Public Policy)
- [Final Report](#)

The Task Force CSTF contracted with WSIPP to examine felony sentencing in Washington State and to provide analytic data to assist with future policy discussions within the CSTF.

Using data from the Caseload Forecast Council, this report reviews the outcomes from FY 2019 felony sentences.

Specifically, the report examines how standard, non-drug sentences vary across the current offense seriousness level based sentencing guideline grid. The report also examines how sentences may vary across and alternative, felony class-based guideline grid.

This report includes an examination of racial disproportionality in sentencing outcomes for standard sentences in the current and alternative guideline grids and for non-standard sentences including enhancements, exceptional sentences, and sentencing alternatives.

In general, the report found that average sentence lengths and incarceration rates may decrease under a class-based grid. However, racial disproportionality in sentencing outcomes was present under both grid systems.

# Section 2

How Task Force Discussions  
on Each Component of the  
Grid are Being Sequenced in  
2021 and 2022

## At the Beginning of 2021...

- How to deliberately *and* collaboratively work through a grid that is made up of many interconnected elements?
- Recognize it is difficult to break the grid down into part-by-part discussions. However, is also difficult to discuss the grid as a whole without having an in depth understanding of each part and how it connects to other parts.

## Where on the Grid to Start the Discussions?

- The first big task of the Grid Subgroup was figuring out where to start on the grid, how to sequence its work, and to present ideas back to the full Task Force early and often.
- In other words, breaking the grid into parts to come up with potential recommendations for each part of the grid that once all is put together, will make up a whole package(s). Once all is put together, the Task Force will be able to discuss the full suite of potential recommendations and then begin working towards consensus deliberations.

# Many Components of the Grid...

- Offense Serious Levels
- Felony class – areas on the grid that exceed stat max
- Statutory minimums
- The “Southwest Corner” of the grid
- Cell ranges
- Exceptional sentence (departures above and below)
- Creating zones
- Aggravators
- Mitigators
- Sentencing alternatives
- Enhancements
- Sentencing for young adults
- Criminal History Score
- Three strikes laws
- Two strikes laws
- Criminal history multipliers
- Mandatory consecutive sentencing for serious violent offenses
- Mandatory consecutive sentencing for other offenses
- Information and data available

# Keeping in Mind, the 3 Policy Goals:

In 2019, the Legislature established the Washington State Criminal Sentencing Task Force (Task Force) to review state sentencing laws, including a consideration of the Sentencing Guidelines Commission's (SGC) 2019 report, and develop recommendations for the purpose of:

- a) Reducing sentencing implementation complexities and errors;
- b) Improving the effectiveness of the sentencing system; and
- c) Promoting and improving public safety.

# And Keeping in Mind, the Task Force's Desired Outcomes:

- Balances discretion across the system and encourages and provides for individual rehabilitation that is trauma informed and based on risk, need, responsivity.
- Addresses multipliers and enhancements and consecutive sentences – sentencing ranges – mandatory portions of sentences – mandatory features that remove judicial discretion and led to longer sentences.
- Provides predictability for all parties.
- Addresses accountability while decreasing unnecessary incarceration(s).
- Avoids shifting population from state prison to jails.
- Addresses inequities in the burden of the costs & workloads associated with incarceration.
- Ensures adequate resources for both DOC & counties.
- Reduces or eliminates disparities / disproportionate impacts.
- Maximizes/increases the information available to the parties and the Judges to make informed decisions.
- Eliminates unnecessary complexity.

# Organized the Components (and Sequenced the Discussions) According to the Grid Axis

## August - November 2021

### Vertical Axis Components

- Offense Serious Levels
- Felony class – areas on the grid that exceed stat max
- Statutory minimums
- The “Southwest Corner” of the grid
- Cell ranges
- Exceptional sentence (departures above and below)
- Creating zones
- Sentencing alternatives
- Sentencing for young adults
- Information and data available

## January – July 2022

### Horizontal Axis Components

- Methods for Addressing Repeat Violent Offending Behaviors
  - Three strikes laws
  - Two strikes laws
  - Criminal history multipliers
  - Mandatory consecutive sentencing for serious violent offenses
  - Mandatory consecutive sentencing for other offenses
- Aggravators and Mitigators
- Enhancements
- Criminal History Score
- Sentencing for young adults
- Information and data available

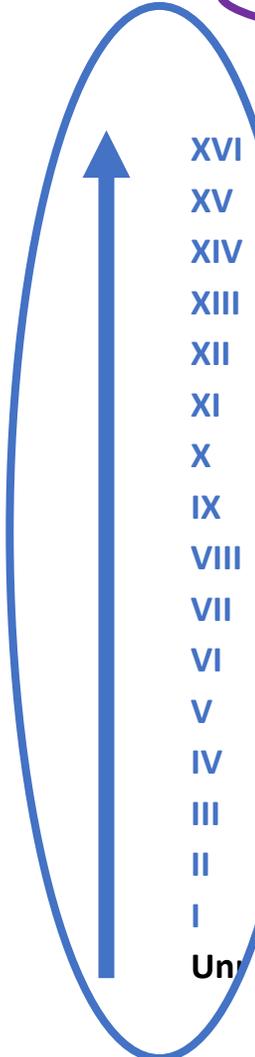
# Vertical Axis: Offense Serious Level

# Horizontal Axis: Criminal History Score

	U	1	2	3	4	5	6	7	8	9+										
	Life Sentence without parole/death penalty for defendants at or over the age of 18 with 5 or more years to Life										5									
XVI												5								
XV	240	320	250	333	261	347	271	361	281	374	291	348								
XIV	12							254	165	265	175	297								
XIII	12							205	165	219	175	297								
XII	9							160	129	171	138	18								
XI	7							136	111	147	120	30								
X	5							89	72	96	77	98								
IX	3							61	51	68	57	71								
VIII	2							48	41	54	46	44								
VII	1							41	36	48	41	54	57	75	67	89	77	102	87	116
VI	12							34	31	41	36	48	46	61	57	75	67	89	77	102
V	6							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
Un	0 - 365 days																			

**Vertical Axis:**  
The rows on the grid represent different **Offense Seriousness Levels (OSLs)** and range from 1 to 16. Higher OSLs correspond with longer sentence lengths.

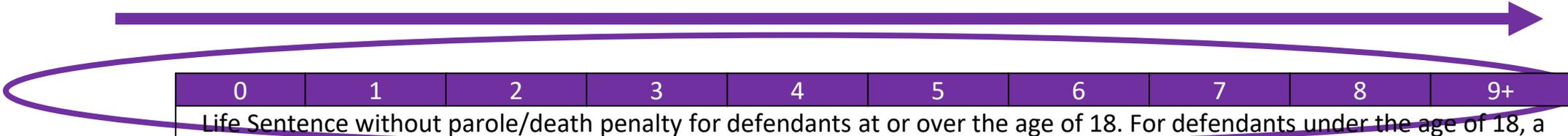
**Horizontal Axis:**  
The columns represent different **criminal history scores** and range from 0 to 9+. Criminal history scores are determined using a complex calculation.



**\*\*\*The potential recommendations presented to full Task Force in 2021** are about the individual grid components that are primarily **associated with the vertical axis of the grid.**

	0	1	2	3	4	5	6	7	8	9+										
	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																			
XVI	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
XV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
XIV	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397
XIII	93	123	102	136	111	147	120	160	129	171	138	184	162	216	178	236	209	277	240	318
XII	78	102	86	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
XI	51	68	57	75	62	82	67	89	72	96	77	102	98	130	108	144	129	171	149	198
X	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	108	144	129	171
IX	21	27	26	34	31	41	36	48	41	54	46	61	67	89	77	102	87	116	108	144
VIII	15	20	21	27	26	34	31	41	36	48	41	54	57	75	67	89	77	102	87	116
VII	12.0																			
VI	5	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																			

The **Grid Subgroup** is now working on the *horizontal axis* components of the grid and will be presenting those **potential recommendations at the start of 2022.**



	0	1	2	3	4	5	6	7	8	9+										
	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																			
XVI																				
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	5	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																			25

# Coming Soon: Potential Recommendations

## Horizontal Axis Components

- **Methods for Addressing Repeat Violent Offending Behaviors** (*look at current methods and discuss other ideas, options, models, etc.*):
  - Three strikes laws
  - Two strikes laws
  - Criminal history multipliers
  - Mandatory consecutive sentencing for serious violent offenses
  - Mandatory consecutive sentencing for other offenses
- Aggravators and Mitigators
- Enhancements
- Criminal History Score
- Sentencing for young adults
- Information and data available

# After Potential Recommendations on the Horizontal Axis are Presented:

Tentative plan is that horizontal axis potential recommendations will go to the full Task Force for input in February and March 2022.

Meanwhile...

The Grid Subgroup will be revising all potential recommendations: bringing in Task Force input, new ideas, refining ideas and areas where members are and are not aligned, etc...

In order to put together the whole package of potential grid recommendations. This will be what the Task Force then starts working to revise, refine, and ultimately enter into consensus deliberations.

## ***Reminder:***

Eventually all potential recommendations will come together to form a complete grid structure.

In essence, *ALL* potential recommendations are sub-recommendations that once put together will be a larger reform package(s) that the full Task Force will then be working towards consensus on.

# Section 3

## Potential Recommendations 1-5

- # 1: Community Supervision Model
- # 2: Felony Class B no higher than OSL 9 and Felony Class C no higher than OSL 5
- # 3: Addresses sentencing ranges that exceed the statutory maximum for class C and class B felonies
- # 4: Offenses Sunset Committee
- # 5: Ongoing Monitoring and Evaluation of any Changes to the Grid

# The Sentencing Grid Subgroup discussions on the vertical axis began with 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	
<b>XVI</b>	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.													
<b>XV</b>	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	
<b>XIV</b>	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	
<b>XIII</b>	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	
<b>XII</b>	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	
<b>XI</b>	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	
<b>X</b>	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	
<b>IX</b>	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	
<b>VIII</b>	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	
<b>VII</b>	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	
<b>VI</b>	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	
<b>V</b>	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
<b>IV</b>	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
<b>III</b>	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
<b>II</b>	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
<b>I</b>	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

## Potential Recommendation. 1:

*The current supervision model based on surveillance is insufficient, and changes to the grid are based on a broader paradigm shift focused on providing the appropriate treatment and resources for individuals placed in state custody. To sufficiently achieve those goals, changes to the grid must include concurrent changes to the DOC community custody approach to fully adopt the i-COACH model or to adopt a separate form of Community Reentry.*

**Purpose:** Grid Subgroup discussed how any changes to the southwest corner of the grid that reduce incarceration or increase reentry services may increase the number of individuals on community supervision. Therefore, members thought it important that the model of community supervision is supportive rather than surveillance-based.

## 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.

## Potential Recommendation. 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. Statutory language helps make changes durable to future legislative decisions. However, legislature could decide to increase felony classes in order to make an offense fit a particular OSL.

Prison (FY19)	Non-Prison (FY19)	Offense Description	Class	OSL
6		AGGRAVATED MURDER 1	A	16
		HOMICIDE BY ABUSE	A	15
		MALICIOUS EXPLOSION 1	A	15
59		MURDER 1	A	15
60		MURDER 2	A	14
		TRAFFICKING 1ST DEGREE	A	14
		MALICIOUS EXPLOSION 2	A	13
		MALICIOUS PLACEMENT OF EXPLOSIVE	A	13
81	1	ASSAULT 1	A	12
2		ASSAULT OF A CHILD 1	A	12
4		COMMER SEX ABUSE A MINOR	A	12
10		RAPE 1	A	12
80	3	RAPE OF A CHILD 1	A	12
2		TRAFFICKING 2ND DEGREE	A	12
		<b>MALICIOUS PLACEMENT OF IMITATION DEVICE 1</b>	<b>B</b>	<b>12</b>
20		MANSLAUGHTER 1	A	11
20		RAPE 2	A	11
67		RAPE OF A CHILD 2	A	11
24		VEHICULAR HOMICIDE - DRUNK	A	11
3		VEHICULAR HOMICIDE - RECKLESS	A	11
104	3	CHILD MOLEST 1	A	10
8		INDECENT LIBERTIES WITH FORCE	A	10
12	1	KIDNAPPING 1	A	10
2		LEADING ORGANIZED CRIME	A	10
		SEXUALLY VIOLENT PREDATOR ESCAPE	A	10
3		<b>CRIMINAL MISTREATMENT 1</b>	<b>B</b>	<b>10</b>
		<b>MALICIOUS EXPLOSION 3</b>	<b>B</b>	<b>10</b>

**Reducing three offenses to seriousness level 9 makes seriousness levels 10-16 limited to only Class A felony offenses.**

Prison (FY19)	Non-Prison (FY19)	Offense Description	Class	OSL
13	2	ARSON 1	A	8
		HOMICIDE BY WATERCRAFT-RECKLESS	A	8
20		COMMER SEX ABUSE A MINOR	B	8
22	2	MANSLAUGHTER 2	B	8
1		PROMOTING PROSTITUTION 1	B	8
		<b>THEFT OF ANHYDROUS AMMONIA</b>	<b>C</b>	<b>8</b>
71	1	BURGLARY 1	A	7
		HOMICIDE BY WATERCRAFT-DISREGARD SAFETY	A	7
		USE MACHINE GUN OR BUMP-FIRE STOCK IN CO	A	7
18	1	VEHICULAR HOMICIDE - DISREGARD SAFETY OF	A	7
88	10	CHILD MOLEST 2	B	7
		CIVIL DISORDER TRAINING	B	7
16		DEALING DEPICTIONS OF A MINOR 1ST DEGREE	B	7
24	2	DRIVE-BY-SHOOTING	B	7
		FALSE REPORTING 1 (EFFECTIVE 6/11/2020)	B	7
30	4	INDECENT LIBERTIES W/O FORCE	B	7
1		INTRODUCING CONTRABAND 1	B	7
		MALICIOUS PLACEMENT OF EXPLOSIVES 3	B	7
		NEGLIGENTLY CAUSING DEATH BY USE OF A SIG	B	7
		SEND/BRING SEXUAL DEPICTIONS OF MINOR 1ST DEGREE	B	7
209	6	UNLAWFUL POSSESSION OF FIREARM 1	B	7
		<b>AIR BAG DIAGNOSTIC SYSTEMS (CAUSING BODILY INJURY OR DEATH)</b>	<b>C</b>	<b>7</b>
		<b>AIR BAG REPLACEMENT REQUIREMENTS (CAUSING BODILY INJURY OR DEATH)</b>	<b>C</b>	<b>7</b>
		<b>MANUFACTURE OR IMPORT COUNTERFEIT, NONFUNCTIONAL, DAMAGED, OR PREVIOUSLY DELPLOYED AIRBAG (CAUSING BODILY INJURY OR DEATH)</b>	<b>C</b>	<b>7</b>
		<b>SELL, INSTALL, OR REINSTALL COUNTERFEIT, NONFUNCTIONAL, DAMAGED, OR PREVIOUSLY DELPLOYED AIRBAG (CAUSING BODILY INJURY OR DEATH)</b>	<b>C</b>	<b>7</b>
		BAIL JUMP WITH MURDER 1	A	6
1		BRIBERY	B	6
8	4	INCEST 1	B	6
2	2	INTIMIDATING A JUDGE	B	6
		INTIMIDATING A JUROR	B	6
12	1	INTIMIDATING A WITNESS	B	6
55	1	POSS OF DEPICTION OF MINOR 1ST DEGREE	B	6
3	1	THEFT FROM A VULNERABLE ADULT 1	B	6
47	26	THEFT OF A FIREARM	B	6
		<b>MALICIOUS PLACEMENT OF IMITATION DEVICE 2</b>	<b>C</b>	<b>6</b>
42	8	RAPE OF A CHILD 3	C 34	6
		UNLAWFUL STORAGE OF ANHYDROUS AMMONIA	C	6

**Reducing eight offenses to seriousness level 5 makes seriousness levels 6 - 9 limited to only Class A and B felony offenses.**

# Results of Potential Rec 2

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	281-375 m					
	XIV	123-220 m	134-234 m	144-244 m	154-254 m	165-260 m					
	XIII	123-164 m	134-178 m	144-192 m	154-205 m	165-211 m					
	XII	93-123 m	102-136 m	111-147 m	120-160 m	129-171 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 m
	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

**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.**

## Potential Recommendation. 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.*

### **Purpose/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.

Offense Seriousness Level	0	1	2	3	4	5	6	7	8	9+	Total A	Total B	Total C	
<b>XVI</b>	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.													
<b>XV</b>	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	
<b>XIV</b>	123-220 m	134-234 m	144-244 m	154-254 m	165-271 m	181-301 m	211-316 m	257-357 m	298-397 m	358-493 m	32	0	0	
<b>XIII</b>	123-164 m	134-178 m	144-192 m	154-205 m	165-221 m	181-251 m	211-288 m	257-342 m	298-397 m	358-493 m	1	0	0	
<b>XII</b>	93-123 m	102-136 m	111-147 m	120-160 m	129-165 m	141-191 m	161-236 m	209-277 m	240-318 m	298-397 m	76	0	0	
<b>XI</b>	78-102 m	86-114 m	95-125 m	102-136 m	111-147 m	120-160 m	129-165 m	141-191 m	161-236 m	209-277 m	40	0	0	
<b>X</b>	51-68 m	57-75 m	62-82 m	67-89 m	72-96 m	77-102 m	82-116 m	87-116 m	92-144 m	97-171 m	22	3	0	
<b>IX</b>	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	62-82 m	67-89 m	72-96 m	77-102 m	171	33	0	
<b>VIII</b>	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	62-82 m	67-89 m	17	40	0	
<b>VII</b>	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	62-82 m	79	338	0	
<b>VI</b>	12+-14 m	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	51-68 m	57-75 m	0	129	41	
<b>V</b>	8-12 m	12+-14 m	13-17 m	15-20 m	17-22 m	22-29 m	0	105	680	785				
<b>IV</b>	3-9 m	6-12 m	12+-14 m	13-17 m	15-20 m	17-22 m	22-29 m	22-29 m	22-29 m	22-29 m	0	1888	90	1978
<b>III</b>	1-3 m	3-9 m	4-12 m	9-12 m	12+-16 m	17-22 m	22-29 m	22-29 m	22-29 m	22-29 m	0	1002	2721	3723
<b>II</b>	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
<b>I</b>	0-60 d	0-90 d	2-5 m	2-5 m	3-8 m	4-12 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		
<b>XVI</b>	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.													
<b>XV</b>	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	
<b>XIV</b>	123-220 m	134-234 m	144-244 m	154-254 m	165-271 m	176-288 m	187-316 m	208-357 m	239-493 m	298-397 m	32	0	0	
<b>XIII</b>	123-164 m	134-178 m	144-192 m	154-205 m	165-221 m	176-236 m	187-257 m	208-288 m	239-342 m	298-397 m	1	0	0	
<b>XII</b>	93-123 m	102-136 m	111-147 m	120-160 m	129-165 m	138-176 m	147-194 m	156-209 m	165-227 m	240-318 m	76	0	0	
<b>XI</b>	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	
<b>X</b>	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	
<b>IX</b>	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	<b>129-171 m</b>	171	33	0	
<b>VIII</b>	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	57-75 m	67-89 m	77-102 m	86-116 m	108-144 m	17	40	0
<b>VII</b>	15-20 m	21-27 m	26-34 m	31-41 m	36-48 m	41-54 m	46-61 m	67-89 m	77-102 m	87-116 m	79	338	0	
<b>VI</b>	12+-14 m	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	0	129	41	
<b>V</b>	8-12 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	<b>72-96 m</b>	0	105	680	785
<b>IV</b>	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
<b>III</b>	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
<b>II</b>	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
<b>I</b>	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

**Recommendation reduces the highest punishment to 108.**

**Recommendation reduces the highest punishment to 54.**

## Potential Recommendation. 4

*Establish a sunset committee that reviews offenses that have not been sentenced in the last 5-10-20 years for potential elimination from the criminal code.*

### **Purpose/Effects:**

- Simplifies the criminal code.
- Eliminate offenses that were created as the result of particular incidents that are extremely rare and have not since reoccurred or are no longer applicable.
- We have methods of creating new crimes, but no standard method of eliminating outdated crimes.

## Potential Recommendation. 5

*Require ongoing monitoring and larger, more in-depth statistical reviews after the first few years.*

### Purpose:

- Need to provide a way to monitor the effects of implementation on an ongoing basis rather than once every 40 years.
- If early implementation indicates unintended consequences or exacerbation of racial disproportionality, ongoing monitoring will allow for more timely reforms to address concerns.
- Value in both ongoing monitoring and occasional, wholistic reviews (e.g., basic annual reports and larger reports every 5-10 years to assess patterns that have insufficient sample sizes on an individual year-over-year basis).

# Section 4

## Potential Recommendations 6-9:

- # 6: Formulaic approach for OSL 1-5
- #7: 12 months or less, minimum become zero
- # 8: Eliminate straddle Cells
- #9: Keep straddle cells and create a state-funded intermediate sanction zone

# 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 OSL's may be necessary once the overall grid structure is established.

# Potential Recommendation 6.

*Establish a formula for determining grid cell ranges for OSLs 1-5. Create the grid ranges for OSLs 1 – 5 using 54 as the anchor for the most serious maximum punishment for OSL 9, CHS 9+.*

	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																			

*Potential Recs 6-9 focus on this portion of the grid*



# Formula for OSL 1-5

**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.

# Cont. Formula for OSL 1-5

	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.

# Cont. Formula for OSL 1-5

	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.
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).

# Cont. Formula for OSL 1-5

	3		5			4															
	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	1
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	2
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.

	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	6
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 for OSL 1-5 Effects

	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 for OSL 1-5 Effects

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

# Formula for OSL 1-5 Effects

## CURRENT GRID RANGES

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

## FORMULA GRID RANGES

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

# Formula for OSL 1-5 Effects

## 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

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

0 - 365 days

	3	4	5	6	7	8	9+
Avg							
Max	Min	Max	Min	Max	Min	Max	Min

OSL	5	8	12	14	16	24	35	43	53	64	64									
	5	6	12	9	14	10	17	15	20	22	29	33	43	41	50	51	60	60	82	60
4	2	5	8	12	9	14	10	17	11	20	17	29	25	60	32	57	44	70	47	84
3	1	2	4	6	10	13	18	24	35	47	55									
2	0	1	3	4	5	12	15	18	23	34	45									
1	0	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 for OSL 1-5 Effects

## 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

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

	3	4	5	6	7	8	9+
Avg							
Max							
Min							

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

# Formula for OSL 1-5 Effects

## WSIPP REPORT – MITIGATED SENTENCES

OSL	Criminal History Score (CHS)																				
	BIPOC										White										
	0	1	2	3	4	5	6	7	8	9+	0	1	2	3	4	5	6	7	8	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.

# Potential Recommendation 7.

*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 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.

# Potential Recommendation 7.

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

Affects minimums that are 3 months or less.

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

# \*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 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.*

## 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 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.

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

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

# Potential Recommendation 9.

## Keep Straddle Cells and 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 9.

## Keep 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 9.

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

### 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.

# Section 5

## Potential Recommendations # 10-13

- # 10: Eliminate mandatory minimum for Murder 1
- # 11: For aggravated murder 1, change the age for life without parole.
- # 12: Second chance review at 20 years
- # 13: Increasing the number of OSLs
- # 13a: Move Trafficking 1 to OSL 15 with Malicious Explosion of a Substance 1.  
Move all other offenses up one OSL
- # 13b: Collapse the ranges for Murder 1 for Criminal History Scores 0-4 and 5-9+

# The Current Grid

\*The portion of the grid that Potential Recs 10- addresses\*

	0	1	2	3	4	5	6	7	8	9+										
<b>XV</b>	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
<b>XIV</b>	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
<b>XIII</b>	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397
<b>XII</b>	93	123	102	136	111	147	120	160	129	171	138	184	162	216	178	236	209	277	240	318
<b>XI</b>	78	102	86	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
<b>X</b>	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
<b>V</b>	6	12	12.05	14	13	17	15	20	22	29	33	43	41	54	51	68	62	82	72	96
<b>IV</b>	3	9	6	12	12.05	14	13	17	15	20	22	29	33	43	43	57	53	70	63	84
<b>III</b>	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
<b>II</b>	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
<b>I</b>	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																			

Reminder: this was the portion of the grid potential recs 6-9 addresses.

# Potential Recommendation # 10

*Eliminate the mandatory minimum for Murder 1.*

## **Grid Group Discussion Points:**

- Little difference between M1 and M2.
- Mandatory minimum gives more leverage/power/discretion to prosecutors particularly in plea bargaining process.
- Potential racial disproportionality in who gets charged with M1 vs M2.

# Potential Recommendation # 11

For aggravated murder 1 change the language from:

*“Life sentence without parole/death penalty for individuals at or over the age of **eighteen**. For individuals under the age of **eighteen**, a term of twenty-five years to life.”*

To

*“Life sentence without parole/death penalty for individuals at or over the age of **twenty-five**. For individuals under the age of **twenty-five**, a term of twenty-five years to life.”*

## Grid Group Discussion Points:

- Recent Supreme Court decisions recognize the emerging brain science and Washington Legislature has made other policy changes recognizing continued brain development between the ages of 18 and 25.

# Potential Recommendation # 12

*For all sentences longer than 20 years, require a second chance review at 20 years of incarceration with the presumption of release.*

## **Grid Group Discussion Points:**

- Similar to current statutes for individuals convicted of offenses committed before age 18.
- Recognizes that extremely long sentences may not be beneficial/useful.
- Acknowledges potential for rehabilitation and redeemability.

# Potential Recommendations # 13, 13a, and 13b

- Potential modifications to OSLs 10 and above.
- Focus is on violent offenses.
- Focus is on implementation of the consistent/formulaic approach to setting guideline ranges while considering unique characteristics of offenses in the upper range.

## **Grid Group Discussion Points/Considerations:**

- Formula provides an answer to “why this range”
- Creates logical consistency in how sentence lengths change as OSL increases and as CHS increases
- Long term durability of changes
- Focus is on creating the structure of the grid. Individual offenses may need to be recalibrated on the new grid to account for the ad-hoc decisions in the past.

# Offenses at Upper OSLs

OSL	Offense	Total FY19
16	Aggravated murder 1	6
15	Homicide by abuse	0
15	Malicious explosion of a substance 1	0
15	Murder 1	59
14	Murder 2	60
14	Trafficking 1st degree	0
13	Malicious explosion of a substance 2	0
13	Malicious placement of explosives 1	0
12	Assault 1	82
12	Assault of a child 1	2
12	Commercial sex abuse a minor - promote	4
12	Rape 1	10
12	Rape of a child 1	83
12	Trafficking 2nd degree	2
11	Manslaughter 1	20
11	Rape 2	20
11	Rape of a child 2	67
11	Vehicular homicide - DUI	24
11	Vehicular homicide – reckless endangerment	3
10	Child molestation 1	107
10	Indecent liberties with force	8
10	Kidnapping 1	13
10	Leading organized crime	2
10	Sexually violent predator escape	0

**Reminder:**  
Previous recommendations moved several Class B felony offenses out of these OSLs, so there are 3 offenses omitted here.

OSL 10-16 are all Class A felonies – thus a separate zone for violent offenses.

# Other Sentencing Laws

- RCW 9.94A.540
  - Murder in the first degree - mandatory minimum 20 years
  - Rape in the first degree – mandatory minimum 5 years
  - Sexually violent predator escape – mandatory minimum 5 years
  - Assault 1 (where used force or means likely to result in death or intended to kill the victim) – mandatory minimum 5 years
- RCW 10.95.030
  - Aggravated first degree murder – mandatory life in prison without possibility of parole\*
- RCW 9.94A.506
  - For murder in the second degree in seriousness level XIV, the minimum term shall be no less than 50 percent of the maximum term.

**These exceptions complicate the use of a standardized/formulaic approach.**

# Current Grid

	0	1	2	3	4	5	6	7	8	9+										
<b>16</b> Aggravated Murder 1	Life Without Parole																			
Homicide by Abuse																				
<b>15</b> Malicious Explosion 1																				
Murder 1	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
<b>14</b> Murder 2																				
Trafficking 1st Degree	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
<b>13</b> Malicious Explosion 2																				
Malicious Placement of Explosives 1	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397
Assault 1																				
Assault of a child 2																				
<b>12</b> Comm. Sex Abuse of a Minor - Promote																				
Rape 1																				
Rape of a child 1																				
Trafficking 2nd degree	93	123	102	136	111	147	120	160	129	171	138	184	162	216	178	236	209	277	240	318
Manslaughter 1																				
<b>11</b> Rape 2																				
Rape of a Child 2																				
Veh. Homicide DUI/Reckless	78	102	86	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
Child Molestation 1																				
Indecent liberties with force																				
<b>10</b> Kidnapping 1																				
Leading organized crime																				
Sexually Violent Predator Escape	51	68	57	75	62	82	67	89	72	96	77	102	98	130	108	144	129	171	149	198

# Potential Recommendation # 13

*Increase the number of seriousness levels from 16 to 18 whereby:*

- OSL 18 is Aggravated Murder with a range of 25 to life regardless of Criminal History Score (as it currently is in SL 16)*
- OSL 17 is Murder 1 and Homicide by Abuse with current ranges for Murder 1*
- OSL 16 is Murder 2 with current maximums, but minimums made consistent at 50% of the maximum.*
- OSL 15 to 10 are as classified currently except for the offenses pulled out above. The formula is used starting at OSL 16.*

## **Formula is same as OSL 1-5**

- Anchor is the maximum for OSL 16
- Maximum for CHS 9+ in each row established by creating equal intervals in the maximum for each row.
- Maximum for CHS 0 is calculated as 35% of the CHS 9+ maximum.
- Maximum for each CHS after CHS 0 is 110% of the maximum for the previous CHS.
- Minimum is 75% of the maximum.

# Potential Recommendation # 13

- **Murder 1, Homicide by Abuse, and Murder 2 moved to their own OSLs.**
- **Expands the grid from 16 to 18 rows.**
- **Ranges for Murder 1 unchanged. Maxs for Murder 2 are the same, but minimums are different.**

Offenses Within Each SL		0	1	2	3	4	5	6	7	8	9+										
Aggr Murder	<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																			
Murder 1 ( <i>mandatory minimum of 20 years</i> ) Homicide by Abuse ( <i>no mandatory minimum</i> )	<b>17</b>	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
Murder 2	<b>16</b>	110	220	117	234	122	244	127	254	132	265	137	275	147	295	158	316	178	357	198	397
Malicious Explosion of a Substance 1	<b>15</b>	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356
Trafficking 1	<b>14</b>	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315
Malicious Explosion of a Substance 2 Malicious Placement of an Explosive 1	<b>13</b>	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274
Assault 1 Assault of a Child 1 Promoting Commercial Sexual Abuse of a Minor	<b>12</b>	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233
Rape 1 Rape of a Child 1 Trafficking 1	<b>11</b>	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192
Manslaughter 1 Rape 2 Rape of a Child 2 Vehicular Homicide - DUI/Reckless Manner	<b>10</b>	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151
Child Molestation 1 Indecent Liberties - w Forcible Compulsion Kidnapping 1 Leading Organized Crime Sexually Violent Predator Escape	<b>9</b>	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151

# Potential Recommendation # 13 – Change in Min and Max

- Sentences across the board decrease except for maximums for Murder 2.
- Reductions range from 12 months to 226 months
- Average reduction is 70 months; median reduction is 55 months

		0		1		2		3		4		5		6		7		8		9+	
Murder 2	<b>16</b>	13	0	17	0	22	0	27	0	33	0	38	0	48	0	58	0	79	0	100	0
Malicious Explosion of a Substance 1	<b>15</b>	147	196	148	196	148	197	147	196	145	192	141	188	147	196	156	208	170	226	144	192
Trafficking 1	<b>14</b>	41	110	44	113	44	111	44	108	44	104	42	98	49	100	55	102	80	121	62	82
Malicious Explosion of a Substance 2	<b>13</b>	52	69	55	73	57	76	59	78	60	79	60	79	68	91	76	102	103	137	93	123
Malicious Placement of an Explosive 1																					
Assault 1	<b>12</b>	32	42	35	47	37	49	39	52	40	52	40	53	54	72	59	78	78	103	66	85
Assault of a Child 1																					
Promoting Commercial Sexual Abuse of a Minor																					
Rape 1																					
Rape of a Child 1	<b>11</b>	28	35	31	41	35	44	35	47	38	49	39	50	57	75	61	81	77	101	66	88
Trafficking 1																					
Manslaughter 1																					
Rape 2	<b>10</b>	12	16	14	17	15	19	15	19	14	19	14	17	28	37	31	42	45	58	36	47
Rape of a Child 2																					
Vehicular Homicide - DUI/Reckless Manner																					
Child Molestation 1																					
Indecent Liberties - w Forcible Compulsion																					
Kidnapping 1																					
Leading Organized Crime																					
Sexually Violent Predator Escape																					

\*Blue cells indicate a decrease in the minimum or maximum.

# Potential Recommendation 13a

*Move Trafficking 1 to OSL 15 with Malicious Explosion of a Substance 1.  
Move all other offenses up one OSL.*

- If the grid is expanded to 18 rows, there are two OSLs that would have only one offense (OSL 15 with Malicious Explosion of a Substance 1 and OSL 14 with Trafficking 1).
- Increasing the OSL by 1 would moderate the reduction in sentences that result from applying the formula to OSL 10 and above.
- This leaves OSL 10 empty, creating room to recalibrate offenses below OSL 10.

# Proposed Potential Changes 13a

- Collapse Malicious Explosion 1 & Trafficking 1 into SL 15. Move all other offenses up 1 SL.
- Leaves open OSL 10 for Class A felonies in OSL 9 and below that may need to be recalibrated to 10 or above under new grid structure.

Offenses Within Each SL		0	1	2	3	4	5	6	7	8	9+										
Aggr Murder	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																			
Murder 1 ( <i>mandatory minimum of 20 years</i> ) Homicide by Abuse ( <i>no mandatory minimum</i> )	17	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
Murder 2	16	110	220	117	234	122	244	127	254	132	265	137	275	147	295	158	316	178	357	198	397
Malicious Explosion of a Substance 1 Trafficking 1	15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356
Malicious Explosion of a Substance 2 Malicious Placement of an Explosive 1	14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315
Assault 1 Assault of a Child 1 Promoting Commercial Sexual Abuse of a Minor Rape 1 Rape of a Child 1 Trafficking 1	13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274
Manslaughter 1 Rape 2 Rape of a Child 2 Vehicular Homicide - DUI/Reckless Manner	12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233
Child Molestation 1 Indecent Liberties - w Forcible Compulsion Kidnapping 1 Leading Organized Crime Sexually Violent Predator Escape	11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192
<Held for recalibration of other offenses>	10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151

# Potential Recommendation 13a – Change in Min and Max

- Most sentences decrease, but much less than previous proposal.
- Reductions range from 1 month to 226.
- Average reduction is 55 months; median reduction is 36 months.
- Largest changes for Malicious Explosion of a Substance 1 (0 cases FY00 - FY20)

		0	1	2	3	4	5	6	7	8	9+										
Murder 2	16	13	0	17	0	22	0	27	0	33	0	38	0	48	0	58	0	79	0	100	0
Malicious Explosion of a Substance 1	15	147	196	148	196	148	197	147	196	145	192	141	188	147	196	156	208	170	226	144	192
Trafficking 1		30	96	32	97	31	94	30	89	29	83	25	75	30	75	34	74	57	90	31	41
Malicious Explosion of a Substance 2	14																				
Malicious Placement of an Explosive 1		41	54	44	57	44	59	44	59	44	58	42	56	49	65	55	74	80	106	62	82
Assault 1																					
Assault of a Child 1																					
Promoting Commercial Sexual Abuse of a Minor	13																				
Rape 1																					
Rape of a Child 1																					
Trafficking 1		22	28	23	31	24	31	25	33	24	31	23	30	35	47	38	50	55	72	35	44
Manslaughter 1																					
Rape 2	12																				
Rape of a Child 2																					
Vehicular Homicide - DUI/Reckless Manner		17	21	19	25	21	27	21	28	22	28	22	27	38	50	40	53	54	71	36	47
Child Molestation 1																					
Indecent Liberties - w Forcible Compulsion																					
Kidnapping 1	11																				
Leading Organized Crime																					
Sexually Violent Predator Escape		1	1	2	2	2	1	0	0	+1	+2	+4	+6	9	11	10	14	21	27	5	6
<Held for recalibration of other offenses>	10	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

\*Blue cells indicate a decrease in the minimum or maximum. Purple cells indicate an increase

# Potential Recommendation # 13b

*Collapse the ranges for Murder 1 for Criminal History Scores 0-4 and 5-9+.*

- Because of the mandatory minimum, we cannot apply the formula to Murder 1.
- Proposed ranges would keep the current minimum for CHS 0 and approximate the Maximum in CHS 4, the Minimum in CHS 5 and the Maximum in CHS 9+

		0	1	2	3	4	5	6	7	8	9+										
Aggr Murder 1	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																			
Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum)	XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
Murder 2	XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397

		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																			
Aggr Murder 1	XVI																				
Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum)	XV	240 - 360										300-540									
Murder 2	XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397

# Potential Recommendation # 13b

*Collapse the ranges for Murder 1 for Criminal History Scores 0-4 and 5-9+.*

Grid Group Discussion points:

- Would increase the maximum in some cases (7 columns) and would decrease the minimum for some cases (8 columns).
- Would it increase or decrease prosecutorial discretion? Defense discretion?
- The difference between Murder 1 and Murder 2 is minimal
- Potential racial disproportionality in who is charged with M1 vs. M2

		0	1	2	3	4	5	6	7	8	9+										
Aggr Murder 1	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																			
Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum)	XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
Murder 2	XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397

		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																			
Aggr Murder 1	XVI																				
Murder 1 (mandatory minimum of 20 years) Homicide by Abuse (no mandatory minimum)	XV	240 - 360										300-540									
Murder 2	XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397

# To Consider – New Zone

- Potential to create new “zone” on the grid for OSL 10 and above
- Zone includes only Class A felonies – thus, violent offenses
- Policies affecting zones do not have to be limited to sentence lengths
  
- **What other forms of accountability could help victims?**
  - Require the court give victims the option to submit Victim Impact Statement in this zone?
  - Mandatory restitution in this zone?
  
- **What other forms of accountability could be integrated for defendants?**
  - Require drug and alcohol assessments?
  - Require some form of rehabilitative treatment?
  - Create special sentencing conditions for repeat-violent convictions?

# Section 6

## Potential Recommendations # 14

- # 14: Formulaic approach for OSL 6-9

# The Current Grid – OSL 6-9

\*Now  
Focusing  
on the  
middle  
portion of  
the grid,  
OSL 6-9

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

# Offenses at Mid OSLs

OSL	Offense	Felony Class	FY 19
9	Explosive Devices Prohibited	A	3
	Homicide By Watercraft-dui	A	0
	Robbery 1	A	204
	Abandon Dependent Persons 1	B	0
	Assault Of A Child 2	B	19
	Controlled Substance Homicide	B	0
	Hit and Run Resulting In Death	B	7
	Inciting Criminal Profiteering	B	1
	Malicious Placement Of Explosives 2	B	0
Sexual Exploitation Of A Minor	B	9	
8	Arson 1	A	15
	Homicide By Watercraft-reckless	A	0
	Comm. Sex Abuse A Minor	B	20
	Manslaughter 2	B	24
	Promoting Prostitution 1	B	1

OSL	Offense	Felony Class	FY 19
7	Burglary 1	A	72
	Homicide By Watercraft-disregard Safety	A	0
	Use Machine Gun Or Bump-fire Stock In Commission Of A Felony	A	0
	Vehicular Homicide - Disregard Safety Of Others*	A	19
	Child Molestation 2	B	98
	Civil Disorder Training	B	0
	Dealing Depictions Of A Minor 1st Degree	B	16
	Drive-by-shooting	B	26
	False Reporting 1 (Effective 6/11/2020)	B	0
	Indecent Liberties W/O Force	B	34
6	Introducing Contraband 1	B	1
	Malicious Placement Of Explosives 3	B	0
	Negligently Causing Death By Use Of A Signal Preemption Device	B	0
	Send/Bring Sexual Depictions Of Minor 1st Degree	B	0
	Unlawful Possession Of Firearm 1	B	215
	Bail Jump With Murder 1	A	0
	Bribery	B	1
	Incest 1	B	12
	Intimidating A Judge	B	4
	Intimidating A Juror	B	0
Intimidating A Witness	B	13	
6	Poss Of Depiction Of Minor 1st Degree	B	56
	Theft From A Vulnerable Adult 1	B	4
	Theft Of A Firearm	B	73

**Reminder:**

Previous recommendations moved several Class C felony offenses out of these OSLs, so there are 8 offenses omitted here.

## Potential Recommendation 14.

*Establish a formula for determining grid cell ranges for OSLs 6-9. Create the grid ranges for OSLs 6 – 9 using 108 as the anchor for the most serious maximum punishment for OSL 9, CHS 9+.*

- Previous recommendations suggested moving a few Class C felonies from OSL 6-9 to OSLs 5 and below.
- The majority of offenses in OSL 6-9 are Class B felonies with a statutory maximum of 120 months.
- Setting the maximum punishment at 108 months instead of 120 allows for some judicial discretion to issue aggravated sentences when warranted and allows for some sentences with some time in community custody.

# Potential Recommendation 14.

## Formula is same as other portions of the grid

- Anchor is the maximum for OSL 9
- Maximum for CHS 9+ in each row established by creating equal intervals in the maximum for each row.
- Maximum for CHS 0 is calculated as 20% of the CHS 9+ maximum.
- Maximum for each CHS after CHS 0 is 120% of the maximum for the previous CHS.
- Minimum is 75% of the maximum.

# The Formula for OSL 6-9

**3**

	0	1	2	3	4	5	6	7	8	9+										
<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
<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
<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
<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

**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.

# OSL 6-9 Formula Cont.

	0	1	2	3	4	5	6	7	8	9+										
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
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
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
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

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.**

# OSL 6-9 Formula Cont.

	3		5		4															
	0	1	2	3	4	5	6	7	8	9+										
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
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
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
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

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.
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).**

# OSL 6-9 Formula Cont.

	3		5			4														
	0	1	2	3	4	5	6	7	8	9+										
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
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
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
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

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.
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+										
9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108
8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95
7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69

# Cont. Potential Recommendation 14.

Current Ranges	OSL	0	1	2	3	4	5	6	7	8	9+									
	9	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	108	144	129
8	21	27	26	34	31	41	36	48	41	54	46	61	67	89	77	102	87	116	108	144
7	15	20	21	27	26	34	31	41	36	48	41	54	57	75	67	89	77	102	87	116
6	12.05	14	15	20	21	27	26	34	31	41	36	48	46	61	57	75	67	89	77	102

Simulated Ranges	OSL	0	1	2	3	4	5	6	7	8	9+									
	9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81
8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95
7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69

Change in Min/Max	OSL	0	1	2	3	4	5	6	7	8	9+									
	9	15	20	17	23	18	23	19	24	18	24	17	22	29	38	29	39	39	52	48
8	7	8	9	12	11	14	12	16	12	15	11	14	25	33	26	34	26	35	37	49
7	3	4	7	8	9	11	10	13	11	14	11	14	21	27	23	31	25	32	26	34
6	2.05	1	3	4	7	8	9	11	10	13	11	14	16	20	20	26	23	30	26	33

# Cont. Potential Recommendation 14.

Current Ranges	OSL	0	1	2	3	4	5	6	7	8	9+									
	9	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	108	144	129
8	21	27	26	34	31	41	36	48	41	54	46	61	67	89	77	102	87	116	108	144
7	15	20	21	27	26	34	31	41	36	48	41	54	57	75	67	89	77	102	87	116
6	12.05	14	15	20	21	27	26	34	31	41	36	48	46	61	57	75	67	89	77	102

Simulated Ranges	OSL	0	1	2	3	Class B felonies have a stat max of 120, so technically, the reductions in the NE corner are less it appears.				7	8	9+								
	9	16	21	19	25	23	31	27					58	77	69	92	81	108		
8	14	19	17	22	20	27	24					51	68	61	81	71	95			
7	12	16	14	19	17	23	21					44	58	52	70	61	82			
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69

Change in Min/Max	OSL	0	1	2	3	4	5	6	7	8	9+									
	9	15	20	17	23	18	23	19	24	18	24	17	22	29	38	29	39	39	28	39
8	7	8	9	12	11	14	12	16	12	15	11	14	25	33	26	34	26	35	37	25
7	3	4	7	8	9	11	10	13	11	14	11	14	21	27	23	31	25	32	26	34
6	2.05	1	3	4	7	8	9	11	10	13	11	14	16	20	20	26	23	30	26	33

# Recalibration Example

***Previous Recommendation 13a empties out OSL 10. Class A felonies in OSL 6-9 could be recalibrated (moved to a higher OSL) to moderate the reductions in sentences for Class A felonies since they are not held to the Class B stat max.***

- We've previously mentioned the possible need to recalibrate offenses to appropriately fit on the new grid.
- Reductions in sentences in OSL 6-9 may be more palatable for Class B felonies, but less desirable for Class A felonies.
- Recalibration may also occur for Class B felonies in OSL 1-5.
- Could be a decision made with these recommendations or could be a separate recommendation for SGC to examine and propose recalibrations of offenses under the new structure.

# Recalibration Example

OSL		0	1	2	3	4	5	6	7	8	9+										
Explosive Devices Prohibited Homicide by Watercraft DUI Robbery 1	<b>Current 9</b>	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	108	144	129	171
	<b>Sim 9</b>	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108
	Diff	15	20	17	23	18	23	19	24	18	24	17	22	29	38	29	39	39	52	48	63
	<b>Sim 10</b>	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151
	Diff	-8	-11	-7	-10	-6	-9	-6	-9	-7	-9	-6	-10	7	9	10	14	24	31	16	20
Arson 1 Homicide by Watercraft - Reckless	<b>Current 8</b>	21	27	26	34	31	41	36	48	41	54	46	61	67	89	77	102	87	116	108	144
	<b>Sim 8</b>	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95
	Diff	7	8	9	12	11	14	12	16	12	15	11	14	25	33	26	34	26	35	37	49
	<b>Sim 9</b>	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108
	Diff	5	6	7	9	8	10	9	11	8	10	6	8	19	25	19	25	18	24	27	36

# To Consider – Other forms of accountability

- Reductions in sentence lengths could coincide with increases in other forms of accountability.
- **What other forms of accountability could help victims for class B offenses?**
  - Mandatory restitution in this zone?
- **What other forms of accountability could be integrated for defendants in the middle of the grid?**
  - Require drug and alcohol assessments?
  - Partial confinement alternatives?
  - Different requirement for violent or sex offenses?