

**Washington State Criminal Sentencing Task Force
Sentencing Grid Subgroup
Meeting Notes: April 18th, 2022
Meeting via Zoom**

Attendees:

- Chief Cobb, *Washington Association of Sheriffs and Police Chiefs*
- Keri-Anne Jetzer, *Sentencing Guidelines Commission (SGC)*
- Melody Simle, *Families of Incarcerated Persons*
- Nick Straley, *Interests of Incarcerated Persons*

Research/Technical Support: Dr. Lauren Knoth-Peterson, *WA State Institute for Public Policy (WSIPP)*

Facilitation Team: Chris Page, Maggie Counihan

Public Guests: Jim Chambers, Bruce Glant, Joanne Smieja

Welcome and Agenda Review

Chris welcomed grid Subgroup members and reviewed the topics discussed at the previous meeting. He explained that today's meeting would focus on the structure of a grid reclassification proposal created by Keri-Anne Jetzer that would tighten the connections between offense seriousness level and class, creating new felony offense classes of A1, A2, and A3 along with Class D.

Discussion: Classification Proposal (including washouts and potential recommendations)

Keri-Anne shared a color-coded version of the simulated grid with the proposed changes included (see visual below).

Proposal 1		Grid shading is for illustrative purposes only																								
Simulated Grid																										
	0	1	2	3	4	5	6	7	8	9+																
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																									
17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496						
16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397						
15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356						
14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315						
13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274						
12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233						
11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192						
10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151						
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						
5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54						
4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45						
3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36						
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27						
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18						
Unr	0 - 365 days																									

Keri-Anne also shared a visual of the proposed changes and how they correspond to the simulated grid. The visual also includes the proposed recommendations of a repeat violent column and an aggravated departure column. She also noted that in the A/B row, currently shaded in dark blue is Vehicular Homicide - Disregard for Safety, a class A offense; however, under State v. Stately (152, Wn.App. 604, 216 P.3d 1102 (2009)) it is not considered a violent offense.

A member asked for more information on that offense and wondered if there is a separate vehicular homicide elsewhere on the grid. They noted that they would not be opposed to making another recommendation to move it to a Class B.

- 1988 version of SRA stated:** (26) "Violent offense" means: (a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner; **((At this time, vehicular homicide was a Class B offense))**

- **E2SHB 2227 1996: Modified 46.61.520 to change vehicular homicide from a class B to a class A offense.**
- Current SRA still separates vehicular homicide:
 - (58) "Violent offense" means:
 - (a) Any of the following felonies:
 - (i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;
 - (ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;
 - (iii) Manslaughter in the first degree;
 - (iv) Manslaughter in the second degree;
 - (v) Indecent liberties if committed by forcible compulsion;
 - (vi) Kidnapping in the second degree;
 - (vii) Arson in the second degree;
 - (viii) Assault in the second degree;
 - (ix) Assault of a child in the second degree;
 - (x) Extortion in the first degree;
 - (xi) Robbery in the second degree;
 - (xii) Drive-by shooting;
 - (xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
 - (xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW [46.61.502](#), or by the operation of any vehicle in a reckless manner;

Class	In Years				Violent	Most Serious Offense^	Mandatory Remand^^	Agg Departure Cap	Repeat Violent
	Stat Max	Washout#	Vacation##	SO Registration					
A1	Life	Life	NA	Life	SV	Any Class A	Any Class A w/Sex Mot		
A2	40	15/SV*	NA	Life	SV	Any Class A	Any Class A w/Sex Mot	48 mos	60 mos
A2	40	15/SV*	NA	Life	SV	Any Class A	Any Class A w/Sex Mot	48 mos	48 mos
A2	40	15/SV*	NA	Life	SV	Any Class A	Any Class A w/Sex Mot	36 mos	48 mos
A2	40	15/SV*	NA	Life	SV	Any Class A	Any Class A w/Sex Mot	36 mos	36 mos
A3	20	10	NA	Life	V	Any Class A	Any Class A w/Sex Mot	24 mos	36 mos
A3	20	10	NA	Life	V	Any Class A	Any Class A w/Sex Mot	24 mos	24 mos
A3	20	10	NA	Life	V	Any Class A	Any Class A w/Sex Mot	24 mos	24 mos
A3	20	10	NA	Life	V	Any Class A	Any Class A w/Sex Mot	24 mos	12 mos
B	10	8	8	15	V/NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	12 mos	12 mos
B	10	8	8	15	V/NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	12 mos	12 mos
A/B**	10	8	8	Life/15	V/NV	Any Class A/B w/Sex Mot	Any Class A/B w/Sex Mot	12 mos	12 mos
B	10	8	8	15	NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	12 mos	12 mos
B/C	10/5	8/3	8/3	15/10	V/NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	6 mos	6 mos
B/C	10/5	8/3	8/3	15/10	V/NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	6 mos	6 mos
B/C	10/5	8/3	8/3	15/10	NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	6 mos	6 mos
B/C	10/5	8/3	8/3	15/10	NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	6 mos	6 mos
B/C	10/5	8/3	8/3	15/10	NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot	6 mos	6 mos
D	3	2	2	***	NV	Any Class B w/Sex Mot	Any Class B w/Sex Mot		

Keri-Anne reviewed the statutory maximum terms for each offense class. She reminded the group that the idea is to divide Class A into three class groups (A1, A2, A3) that make explicit an already existing (but not apparent on the grid) hierarchy of seriousness levels. Some serious violent offenses would move up in seriousness level.

Chris asked members to provide reflections on the overall proposal for the framework.

- A member shared general support for the reorganization and placing offenses where they should be based on distinctions made by the Legislature. They expressed a desire to be consistent and clear with how offenses are listed on the grid.
 - Dr. Knoth-Peterson noted that some offenses would not conform to the proposed structure, but the Task Force could point that out in a recommendation and state that the Legislature would need to address them.
- Keri-Anne reminded the subgroup that some proposed Task Force recommendations already suggest moving certain offenses down to align with the proposed new grid structure.
- A member said the structure makes sense, but there might be some pushback to moving certain offenses to a higher seriousness level.
- Another member stated that they had reservations about supporting a structure with shorter washout periods since the proposed revised simulated grid already has shorter sentences throughout.
- Dr. Knoth-Peterson reminded the Subgroup that one cannot universally say that sentence lengths will be longer or shorter based on the changes (proposed recommendations that moderate the effects of the changes), but you can say that the

structure of the grid makes sense. This proposal, while adding classes, would actually make the system less complex by making explicit the differences in offense severity that already exist but are not apparent on the surface.

- A member noted concern about not knowing what proposals would get passed by the Legislature and then what changes would or would not take effect.

Chris reminded the subgroup that once the recommendations are given to the Legislature, it is not up to the Task Force anymore.

- Another member shared concerns about not knowing what would become legislation and that they don't think the proposed changes to the grid structure would address disproportionality.
- There was a suggestion to include a introduction/preface to the report about the importance of providing funding to implement the package of recommendations that will be submitted to the Legislature.
- Another member echoed the suggestion to include a preface to all recommendations that funding will be provided by the Legislature.

Next Steps

Once these discussions are complete and potential recommendations drafted, the Subgroup will move on to discussing Criminal History Score, followed by information available to judges at sentencing, such as pre-sentence investigations, and then data collection and sharing (monitoring and evaluation).

RESEARCH AND INFORMATION SHARED VIA ZOOM CHAT DURING MEETING

N/A

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

Bruce Glant: I have talked with several legislators and even members of the CSTF who have suggested as myself that a crime with no-contact, and non-harming, and even given diversion versus incarceration. Right now, many of these crimes are ranked as violent offenses.