

Criminal Sentencing Task Force
Proposed Recommendation: The New Felony Sentencing Guidelines Grid

DRAFT

8.10.22

Background and Overview of CSTF Work to Date

In 2019, The Legislature established the Washington State Criminal Sentencing Task Force and directed the William D. Ruckelshaus Center (Center) to facilitate the Task Force's work to review state sentencing laws and provide 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.

The proviso requested the Task Force submit an initial report to the Governor and the appropriate committees of the Legislature by December 31, 2019, and a final report by December 31, 2020. In 2019, the Task Force met monthly from September – December for full-day facilitated meetings and reached consensus on two policy recommendations, described in the 2019 Initial Report.

In 2020, the Task Force met monthly from January–August (except for March when the pandemic hit) and bi-monthly from September–December. The Task Force created two working groups, one to address Sentencing Effectiveness and the second to address Reentry and Reducing Recidivism. Each met at least twice a month. The Task Force also created a Subgroup of the Sentencing Effectiveness Workgroup to focus specifically on the felony sentencing guidelines grid, which meets weekly.

From mid-October through early December, the Task Force deliberated on potential policy changes, reaching consensus on 47 recommendations to improve the effectiveness of the criminal sentencing system, reduce complexities and errors, and promote and improve public safety. These recommendations, described in the 2020 Final Report, represent a mix of agency policy and legislative statutory changes to address the three policy goals stated above. While the Legislature and Department of Corrections (DOC) acted on a few, most still await implementation (after the *Blake* decision subsumed lawmakers' attention related to criminal justice issues in 2021).

As the Task Force discussed potential policy changes over the course of 2020, the group agreed that detailed, research-based work remains to address the sentencing guidelines grid. As reflected in Recommendation #1 in the 2020 Report, the Task Force agreed that proper consideration of changes to the felony sentencing grid would require a thorough assessment of the possible impacts of those changes and would take more time than initially allotted to the Task Force. Thus, the Task Force agreed to continue meeting and working together and the Legislature extended the Task Force till June 2023.

At the beginning of 2021, the Task Force contracted with the Washington State Institute for Public Policy (WSIPP) to examine sentencing outcomes using the current sentencing guidelines grid and potential outcomes using a modified version of the guidelines grid. The report provided analytic data that assisted the Grid Subgroup in discussions beginning May 2021 about potential changes to the sentencing guidelines grid.

WSIPP presented the report and findings to the Task Force at its May 6, 2021 meeting: [Examining Washington State's Sentencing Guidelines: A Report to the Criminal Sentencing Task Force](#).

Given the interconnectedness of the myriad elements of the sentencing system connected to the grid, it is difficult to break down into individual parts to understand and discuss each one. However, it would

also be hard to discuss the whole grid without an in-depth understanding of each component part and how it connects to other parts.

The Grid Subgroup elected first to determine how to deliberately *and* collaboratively analyze and improve the grid, with in its many interconnected elements. This meant figuring out where to start on the grid, how to sequence the discussion and work, and how best to present ideas back to the full Task Force. The Subgroup opted to break the grid into parts to come up with potential recommendations for each part of the grid; once all those recommendations get stitched together, they will comprise a whole package.

Presentations on potential recommendations from the Grid Subgroup to the full Task Force occurred from August 2021 – July 2022. In July 2022 the Grid Subgroup held two all-day sessions to incorporate Task Force input to stitch together specific recommendations having to do with the formulaic approach and structure for the sentencing guidelines grid into one holistic new sentencing grid proposal.

Overview and Underlying Motivations for Revising Washington’s Current Felony Sentencing Guidelines Grid

The Washington State Legislature passed the Sentencing Reform Act of 1981 (SRA) and established the Sentencing Guidelines Commission (SGC) tasked with developing a recommendation for a sentencing grid for felony sentences. In 1983, the Legislature adopted the SGC’s recommendations, formally implementing the state’s felony guideline grid. Since the passage and adoption of the original guidelines grid, the legislature has modified one or more of the state’s sentencing laws every year.

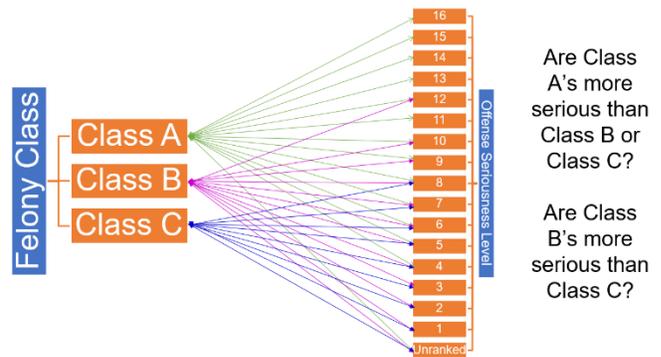
Washington State’s Current Standard Felony Sentencing Guideline Grid

		CRIMINAL HISTORY SCORE									
		0	1	2	3	4	5	6	7	8	9+
S E N T E N C I N G G U I D E L I N E S	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	0 - 90 days	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	0 - 60 days	0 - 90 days	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	

The Task Force reviewed the current guideline grid through the lens of its three policy goals and identified the following:

Sentencing Complexities and Errors

- 1) Offenses are classified multiple ways, with the two primary ways being felony class and offense seriousness level. When looking at how offenses are placed on the grid, there is no direct correlation between those two ways. This brings up questions of whether Class A offenses are in fact more serious than Class B and Class C, whether and Class B offenses are more serious than Class C, and so on.
- 2) There are portions of the grid where the sentence ranges are not valid for some of the offenses in those serious levels. This is due to the interaction of statutory maximums that applies to felony class and instances where there are mandatory minimums.



Circled ranges exceed the statutory maximum for some offenses included in the offense seriousness level. Thus, these are not valid sentence ranges for some cases seen by the court.

	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
XV	123	220	134	234	144	244	154	254	165	265	175
XIV	123	164	134	178	144	192	154	205	165	219	175
XIII	93	123	102	136	111	147	120	160	129	171	138
XII	78	102	86	114	95	125	102	136	111	147	120
XI	51	68	57	75	62	82	67	89	72	96	77
X	31	41	36	48	41	54	46	61	51	68	57
IX	21	27	26	34	31	41	36	48	41	54	46
VIII	15	20	21	27	26	34	31	41	36	48	41
VII	12.05	14	15	20	21	27	26	34	31	41	36
VI	6	12	12.05	14	13	17	15	20	22	29	33
V	3	9	6	12	12.05	14	13	17	15	20	22
IV	3	3	3	8	4	12	9	12	12.05	16	17
III	0	3	2	6	3	9	4	12	12.05	14	14
II	0	3	2	6	3	9	4	12	12.05	14	14
I	0	2	0	3	2	5	2	6	3	8	4
Unr	0	2	0	3	2	5	2	6	3	8	4

Guideline minimum sentences for Rape 1 and Assault 1 (OSL 12) are much higher than current mandatory minimum sentence (60 months).
Guideline minimum for Sexually Violent Predator-Escape (OSL 10) is below the mandatory minimum sentence (60 months).

	0	1	2	3	4	5	6	7	8	9+	
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V	3	9	6	12	12.05	14	13	17	15	20	22
IV	3	3	3	8	4	12	9	12	12.05	16	17
III	0	3	2	6	3	9	4	12	12.05	14	14
II	0	3	2	6	3	9	4	12	12.05	14	14
I	0	2	0	3	2	5	2	6	3	8	4
Unr	0	2	0	3	2	5	2	6	3	8	4

Therefore, one must know what other statutes apply (e.g., stat max) to determine if the standard range is valid sentence.

Caseload Forecast Council and complexities reported by Department of Corrections regarding Criminal History Score (CHS) calculations particularly due to exceptions to standard scoring rules (multipliers).

Current ranges do not increase consistently across criminal history score or with an increase in seriousness level.

- 4) There is a lack of consistency regarding sentence ranges. Sentence ranges do not increase consistently across criminal history score or with an increase in serious level. Ultimately, there is no answer to question: "why are the ranges what they are?"

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III	0	3	2	6	3	9	4	12	12.05	14	14
II	0	3	2	6	3	9	4	12	12.05	14	14
I	0	2	0	3	2	5	2	6	3	8	4
Unr	0	2	0	3	2	5	2	6	3	8	4

- 5) Sometimes an increase in CHS will increase a sentence, but not always.

Sentencing Effectiveness

- In many portions of the grid, judges have limited discretion to tailor sentences to the characteristics of the case. There are narrow and inconsistent ranges, strict cutoffs for local and state sanctions, and as described above, some sentencing ranges are not applicable since they exceed statutory maximums.

Strict delineation between cells that are jail sentences and cells that are prison sentences. Creates significant jumps in ranges around the demarcation line.

	0	1	2	3	4	5	6	7	8	9+	
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IV	0	3	2	6	3	9	4	12	12.05	14	14
III	0	2	0	3	2	5	2	6	3	8	4
II	0	2	0	3	2	5	2	6	3	8	4
I	0	2	0	3	2	5	2	6	3	8	4
Unr											

days

100% increase in min

No change in max

33% increase in max

For example, there is a strict delineation on the grid where there are jail sentences (12 months or less) and prison sentences (12 months + one day or more), which creates significant jumps in ranges at the demarcation line.

This strict delineation also creates significant restriction/variance in judicial discretion.

- There is limited transparency in determination of sentence. Characteristics of criminal history operate “behind the scenes” to aggravate sentences.

Strict delineation between cells that are jail sentences and cells that are prison sentences. Creates significant jumps in ranges around the demarcation line.

	0	1	2	3	4	5	6	7	8	9+	
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IV	0	3	2	6	3	9	4	12	12.05	14	14
III	0	2	0	3	2	5	2	6	3	8	4
II	0	2	0	3	2	5	2	6	3	8	4
I	0	2	0	3	2	5	2	6	3	8	4
Unr											

days

100% increase in min

No change in max

33% increase in max

Strict delineation between cells that are jail sentences and cells that are prison sentences. Creates significant restriction/variance in judicial discretion

	0	1	2	3	4	5	6	7	8	9+	
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IV	0	3	2	6	3	9	4	12	12.05	14	14
III	0	2	0	3	2	5	2	6	3	8	4
II	0	2	0	3	2	5	2	6	3	8	4
I	0	2	0	3	2	5	2	6	3	8	4
Unr											

0 - 365 days

6 mo

2 mo

8 mo

2 mo

There are inconsistent jumps in sentence ranges tied to CHS and OSL increases. Some changes in CHS matter more than others.

- There have been significant changes over 40 years leading to complex scoring and/or sentencing exceptions in some instances for some offenses, undermining consistency and contributing to errors.

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V	1	3	3	8	4	12	9	12	12.05	16	17
IV	0	3	2	6	3	9	4	12	12.05	14	14
III	0	2	0	3	2	5	2	6	3	8	4
II	0	2	0	3	2	5	2	6	3	8	4
I	0	2	0	3	2	5	2	6	3	8	4
Unr											

0 - 365 days

Minimum for all OSLs other than 14 are 75% of maximum = narrow ranges
***OSL 14 is 50% of the maximum**

- The lack of an overarching framework leaves limited guidance to the Legislature as it considers the creation new offenses or changing components of existing offenses.

Promoting and Improving Public Safety

- 1) There is no clear evidence connecting sentence length to reducing recidivism.
- 2) There is no present evidence of criminal history score being predictive of the likelihood of recidivism in WA. (*insert citation*)
- 3) Collateral consequences from incarceration may in fact increase recidivism and can undermine public safety. (*insert citations*)
- 4) Limited transparency and predictability exist for victims at sentencing (e.g., How is CHS calculated? What is the actual possible sentence?)
- 5) There are limited local and rehabilitative options for judges at sentencing, options that may be more effective at reducing recidivism.
- 6) Evidence suggests that generalized offending patterns are more predictive of recidivism than specialized/repeat behaviors. (*insert citations*)

	0	1	2	3	4	5	6	7	8	9+										
XVI	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
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IV	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
III	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
II	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
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

How you reach a particular criminal history score is unclear. Individuals with the same number of prior convictions can end up with significantly different scores/sentences

PROPOSED RECOMMENDATION: The New Felony Sentencing Guidelines Grid Proposal

Since 2019, the Criminal Sentencing Task Force has pursued the development of a revised adult felony sentencing grid that reduces complexity, increases the effectiveness of the sentencing system, promotes public safety, and decreases the potential for racial disproportionality at sentencing.

The summary on the following pages outlines the parameters included in the proposed recommendation for a new felony sentencing guidelines grid and explains how this proposal addresses the three Task Force policy goals.

This proposal combines several of the individual potential recommendations drafted by the Grid Subgroup and presented to the full Task Force from August 2021 thru July 2022. Over the month of July 2022, the Grid Subgroup took the input gathered during those Task Force meetings to revise and then combine the grid-specific potential recommendations into a comprehensive new sentencing grid proposal. This Proposed Recommendation was presented to the full Task Force on August 4th, 2022.

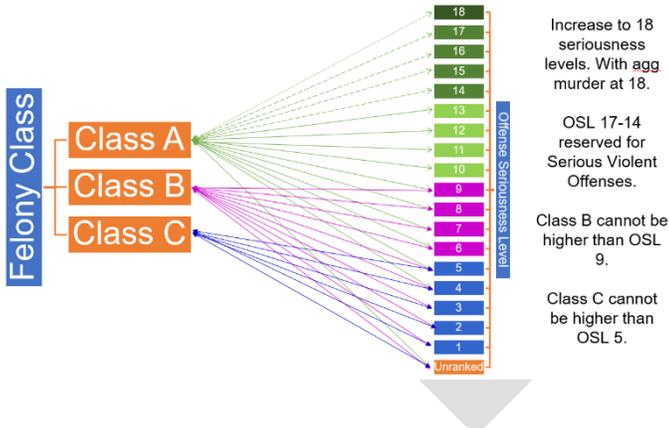
The Task Force acknowledges that under this new structure, recalibration and/or reclassification of some offenses will be needed and recommends this responsibility lie with the Legislature as it is beyond the scope and timeline of this Task Force.

The New Felony Sentencing Guidelines Grid¹

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
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	49.0	10%
16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																					

Core Components

- Use of formulas to establish grid ranges (5 total formulas)



This is the same sentencing grid as above, but with five numbered callouts (1-5) pointing to specific rows. Callout 1 points to row 17, callout 2 to row 16, callout 3 to row 14, callout 4 to row 8, and callout 5 to row 1. These callouts correspond to the Felony Class definitions in the diagram.

- Explicit integration of other statutes that impact sentencing to align the grid with the rest of the sentencing system

- Transparency
- Balanced discretion – increasing judicial discretion
- Longevity – establishing a framework that can guide future legislative decisions to ensure long-term consistency in the sentencing system

¹ See Appendix A. for a complete visual of the new grid formula and structure.

Formulas and Structure²

1. The number of seriousness levels increases from 16 to 18.
 - a. Felony offenses are sorted such that class B offenses are no higher than seriousness level 9 and class C offenses are no higher than seriousness level 5. Serious violent offenses are in seriousness levels 14 – 17, with OSL 17 being Murder 1/Homicide by Abuse.
 - b. There are **five formulas** that establish the cell ranges on the new grid. Each formula includes the following:
 - An **Anchor** – this is a set value that establishes the foundation for all other range values.
 - **Percentage increase for each additional criminal history score** – this is a set percentage that determines how much the maximum in the range increases for each additional criminal history score point (this means there is a consistent increase in sentences as defendants move to the right across the grid).
 - **Percentage of the maximum used to establish the minimum** – this is a set percentage that determines the value of the minimum in a range, based on the value of the maximum in the range.
2. The Five Formulas are as follows:

Formula 1: OSL 17: Murder 1/Homicide by Abuse

- a. **Anchor:** Criminal History Score (CHS) 0 minimum of 240 months (aligned with the mandatory minimum).
- b. **Percentage increase in maximum for each additional criminal history score point:** 105%
- c. **Percentage of the maximum used to establish the minimum:** 75%

Formula 2: OSL 16-14: Serious Violent Offenses

- a. **Anchor:** Criminal History Score 9+ maximum for OSL 14 is 40 months higher than the maximum for Criminal History Score 9+ for OSL 13. Each additional increase in seriousness level (for 15 and 16) increases the maximum (at CHS 9+) 40 months from the previous.
- b. **Maximum for CHS 0:** 45% of the maximum at CHS 9+
- c. **Percentage increase in maximum for each additional criminal history score point:** 110%
- d. **Percentage of the maximum used to establish the minimum:** 75%

Formula 3: OSL 13-10: Violent Offenses

- a. **Anchor:** Criminal History Score 9+ maximum for OSL 10 is 25 months higher than the maximum for Criminal History Score 9+ for OSL 9. Each additional increase in seriousness

² See Appendix B. for a detailed explanation of each formula.

level (for 11-13) increases the maximum at 9+ 25 months from the previous seriousness level.

- b. Maximum for CHS 0: 45% of the maximum at CHS 9+
- c. Percentage increase in maximum for each additional criminal history score point: 110%
- d. Percentage of the maximum used to establish the minimum: 60%

Formula 4: OSL 9-6: Class A/B offenses

- a. Anchor: Criminal History Score 9+ maximum for OSL 9 is 120 months which aligns with the statutory maximum sentence for class B felonies.
- b. Calculation of other maximums at CHS 9+: Each decrease in OSL decreases the maximum sentence for CHS 9+ by 15 months.
- c. Maximum for CHS 0: 27.5% of the maximum at CHS 9+
- d. Percentage increase in maximum for each additional criminal history score point: 115%
- e. Percentage of the maximum used to establish the minimum: 60%

Formula 5: OSL 5-1: Class A/B/C offenses

- a. Anchor: Criminal History Score 9+ maximum for OSL 5 is 60 months which aligns with the statutory maximum sentence for class C felonies.
- b. Calculation of other maximums at CHS 9+: Each decrease in OSL decreases the maximum sentence for CHS 9+ by 10.5 months.
- c. Maximum for CHS 0: 20% of the maximum at CHS 9+
- d. Percentage increase in maximum for each additional criminal history score point: 120%
- e. Percentage of the maximum used to establish the minimum: 30%

- 3. After calculating ranges, values are floored. That is, all numbers after the decimal are removed and not rounded. Thus 29.1 would become 29 and 29.9 would become 29.

New Column: Repeat Violent/Serious Violent and Repeat Domestic Violence

- 4. The offense-specific exceptions to standard scoring rules (“multipliers”) are eliminated (see Attachment D.) and a new column is added for adjustments to the standard range for qualifying individuals. Individuals are eligible for the expanded range if their current offense is a violent or serious violent offense and they have at least one prior conviction for a violent or serious violent offense. Individuals are also eligible for the expanded range if their current offense is a domestic violence offense and they have at least one prior conviction for a domestic violence offense.
 - a. The maximum sentence of the range should increase 10% for individuals who qualify for the repeat offending column.

- b. Qualifying domestic violence offenses are those included in RCW 9.94A.525(21):
- i. (a) Count two points for each adult prior conviction where **domestic violence** as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a **no-contact or protection order** (RCW 7.105.450 or former RCW 26.50.110), **felony Harassment** (RCW 9A.46.020(2)(b)), **felony Stalking** (RCW 9A.46.110(5)(b)), **Burglary 1** (RCW 9A.52.020), **Kidnapping 1** (RCW 9A.40.020), **Kidnapping 2** (RCW 9A.40.030), **Unlawful imprisonment** (RCW 9A.40.040), **Robbery 1** (RCW 9A.56.200), **Robbery 2** (RCW 9A.56.210), **Assault 1** (RCW 9A.36.011), **Assault 2** (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), **Arson 1** (RCW 9A.48.020), or **Arson 2** (RCW 9A.48.030);
 - ii. (b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after July 23, 2017, for any of the following offenses: **Assault of a child in the first degree**, RCW 9A.36.120; **Assault of a child in the second degree**, RCW 9A.36.130; **Assault of a child in the third degree**, RCW 9A.36.140; **Criminal Mistreatment in the first degree**, RCW 9A.42.020; or **Criminal Mistreatment in the second degree**, RCW 9A.42.030;

New Column: Aggravated Departure Cap

5. A new advisory column is added to the grid that provides the recommended cap on aggravated sentences. Aggravated sentences that go beyond the recommended amount are presumptively unreasonable. As in the status quo, all aggravated sentences would still be appealable.
- a. The advisory cap is equal to 10% of the maximum punishment in each seriousness level.

Recalibration of Offenses

6. The Task Force acknowledges that under this new structure, further recalibration of offenses will be needed and recommends this responsibility lie with the Legislature as it is beyond the scope and timeline of this Task Force.

Addresses Sentencing Complexities and Errors by:

- Aligns sentences with all other statutes (e.g., stat max)
- Eliminates multipliers while still holding individuals accountable for repetitive offending behaviors.
- Formula makes it clear exactly why ranges are the way they are.
- Consistent increases in sentences with an increase in CHS.

Addresses Effectiveness of the Sentencing System:

- Increases judicial discretion to tailor sentences to the characteristics of the case.

- Creates consistent and wider sentence ranges.
- No strict cut off for local and state sanctions.
- All sentence ranges are valid sentences.
- Increased transparency with expanded ranges rather than hidden moves in CHS
- Creates consistent increases in sentence ranges with increases in CHS and OSL.
- Establishes a framework with clear boundaries and guidance for the Legislature.

Promoting and Improving Public Safety:

- Formulas widen the sentence ranges without resulting in large reductions in the maximum range.
- The change in calculation of CHS due to the elimination of the exceptions to standard scoring (multipliers) and the standard column approach for repeat offending may actually increase predictiveness of CHS.
- Provides increased options for local sanctions to reduce disruptions caused by incarceration in state prison while still holding individuals accountable.
- Clear transparency for all parties, including victims, at sentencing.
- Increases options for local sanctions and increases judicial discretion by widening sentence ranges.
- Reduces overemphasis of specialization/repeat offending while still allowing for an increase in accountability in those cases.

Appendix A.

10% of cell maximum
or 1 month, whichever
is greater
10 % of max row sent

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap (advisory, greater than is presumptively unreasonable)	Repeat SV/Violent or Repeat DV 9.94A.525(21)										
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	49.0	10%
16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																					

OSL 17 anchor	240 minimum at CHS 0
Increase for each additional CHS	1.05 percent of previous maximum
Minimum	0.75 percent of max
SV minimum	0.75 maximum
Anchor minus next anchor divided by:	7
Max at 0 CHS	0.45 percent of max at CHS 9+
Increase for each additional CHS	1.1 percent of previous maximum
Violent Minimum	0.6 percent of max
Violent range inc from prev CHS 9+ max	25 months from previous max
SV range inc from prev CHS 9+ max	40 months from previous max
OSL 9 Anchor	120 maximum CHS 9+
Anchor minus next anchor divided by:	4
Max at 0 CHS	0.275 percent of max at CHS 9+
Increase for each additional CHS	1.15 percent of previous maximum
Minimum	0.6 percent of max
OSL 5 Anchor	60 maximum CHS 9+
OSL 1 Anchor	18 maximum CHS 9+
Anchor minus next anchor divided by:	4
CHS 9+ max	month decrease from prior CHS 9+ max
Max at 0 CHS	0.2 percent of max at CHS 9+
Increase for each additional CHS	1.2 percent of previous maximum
Minimum	0.3 percent of max

Proposed Recommendation: New WA Felony Sentencing Guidelines Grid

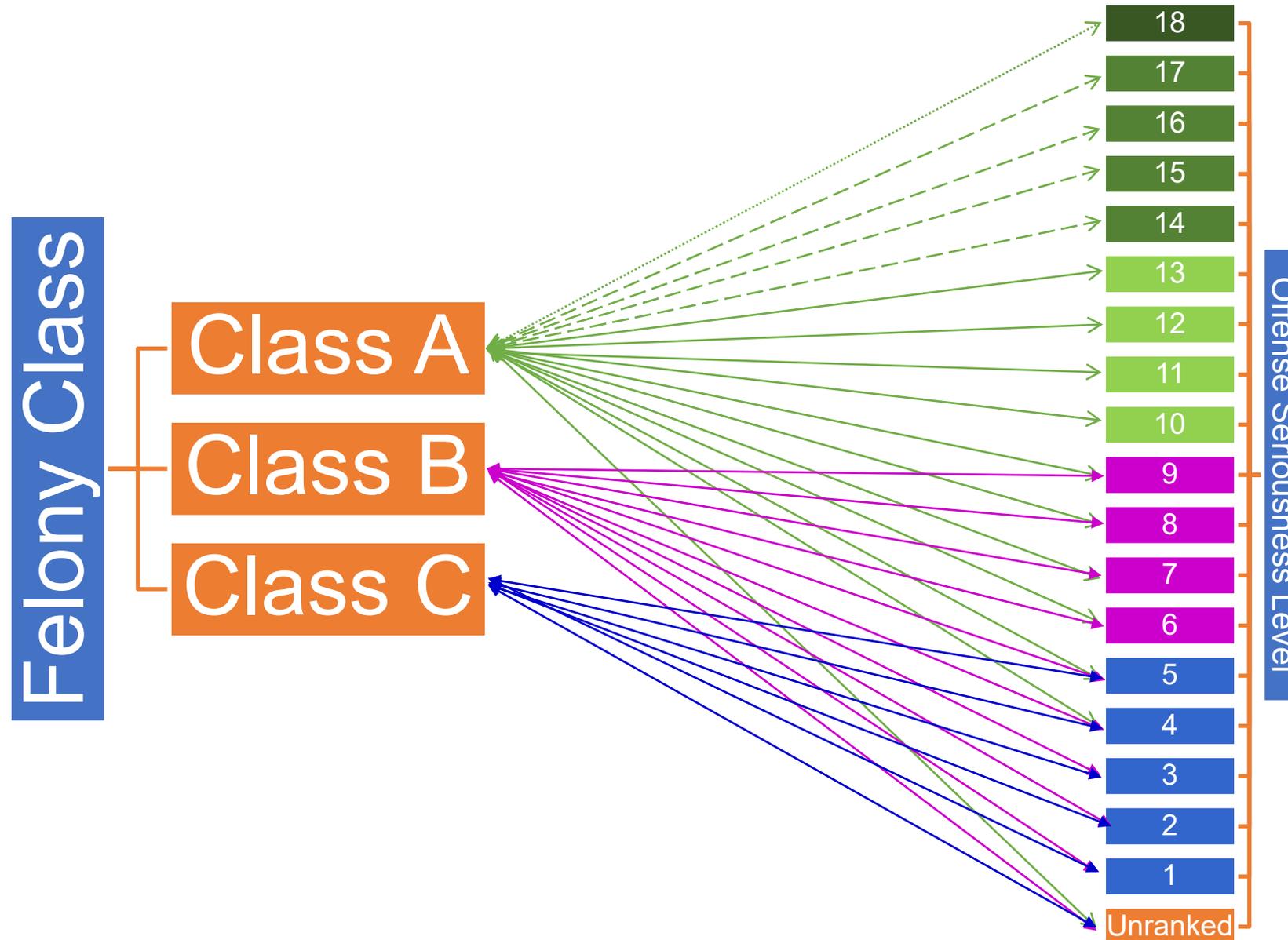
	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	49.0	10%
16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																					

Proposed Recommendation: New Felony Sentencing Guidelines Grid

Core Components

- Use of formulas to establish grid ranges (5 total formulas)
- Explicit integration of other statutes that impact sentencing to align the grid with the rest of the sentencing system
- Transparency
- Balanced discretion – increasing judicial discretion
- Longevity – establishing a framework that can guide future legislative decisions to ensure long-term consistency in the sentencing system

Grid proposal – aligning offense seriousness



Increase to 18
seriousness
levels. With agg
murder at 18.

OSL 17-14
reserved for
Serious Violent
Offenses.

Class B cannot be
higher than OSL
9.

Class C cannot
be higher than
OSL 5.

Proposed Recommendation: New Felony Sentencing Guidelines Grid

Use of five formulas to establish grid ranges.

	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	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220
12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195
11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120
8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28
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																			

1

2

3

4

5

The Five Formulas

Formula Core Components:

- **Anchor** – this is a set value that establishes the foundation for all other range values.
- **Percentage increase for each additional criminal history score** – set percentage that determines how much the maximum in the range increases for each additional criminal history score point (this means there is a consistent increase in sentences as defendants move to the right across the grid).
- **Percentage of the maximum used to establish the minimum** – set percentage that determines the value of the minimum in a range, based on the value of the maximum in the range.
- After formula is applied, values are “floored” and the decimal is dropped. Thus 29.1 would become 29 and 29.9 would become 29.

Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	Agg Departure Cap	Repeat SV/Violent or Repeat DV
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, 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	49.0	10%	
16	114	151	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%	
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%	
14	87	117	93	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%	
13	59	99	75	108	71	111	86	128	96	131	101	146	111	157	122	173	138	190	145	200	22.0	10%	
12	52	87	57	96	63	99	74	108	81	111	86	128	96	131	101	146	111	157	122	173	19.0	10%	
11	45	76	50	85	55	88	69	96	74	99	81	111	86	128	96	131	101	157	122	173	17.0	10%	
10	39	65	43	71	47	77	60	84	63	88	74	99	81	111	86	128	96	131	101	146	14.0	10%	
9	19	33	22	37	27	45	36	54	41	57	46	69	55	77	60	84	63	88	74	99	12.0	10%	
8	17	28	19	33	24	39	30	45	36	54	41	57	46	69	55	77	60	84	63	88	10.0	10%	
7	14	24	17	28	19	33	24	39	30	45	36	54	41	57	46	69	55	77	60	84	9.0	10%	
6	12	20	14	23	16	27	20	33	24	39	30	45	36	54	41	57	46	69	55	77	7.0	10%	
5	3	12	4	14	5	11	8	13	10	16	12	19	14	23	16	27	20	33	24	39	6.0	10%	
4	2	9	3	11	4	8	6	11	8	13	10	16	12	19	14	23	16	27	20	33	4.0	10%	
3	2	7	2	9	3	7	5	11	8	13	10	16	12	19	14	23	16	27	20	33	3.0	10%	
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%	
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%	
Unr	0 - 365 days																						

Formula 1 OSL 17 0 Murder 1/Homicide by Abuse

- i. Anchor:** Criminal History Score 0 minimum of 240 months (aligned with the **mandatory minimum**).
- ii. Percentage of the maximum used to establish the minimum: 75%**
- iii. Percentage increase in maximum for each additional criminal history score point: 105%**

Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
18	Life Imprisonment without parole/death penalty for defendant at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	252	264	276	288	300	312	324	336	348	49.0	10%										
16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
15	101	135	117	158	129	173	144	189	154	207	166	217	177	233	192	253	211	279	235	300	30.0	10%
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
13	75	100	81	108	87	116	95	125	104	134	113	143	122	152	131	161	140	170	150	180	22.0	10%
12	63	84	67	91	74	98	81	105	88	112	95	119	102	126	109	133	116	140	123	147	19.0	10%
11	51	68	54	72	58	77	63	82	68	87	73	92	78	97	83	102	88	107	93	112	17.0	10%
10	40	53	41	54	43	57	45	60	48	63	51	66	54	70	58	75	63	80	68	85	14.0	10%
9	30	40	30	40	30	40	30	40	30	40	30	40	30	40	30	40	30	40	30	40	12.0	10%
8	20	27	20	27	20	27	20	27	20	27	20	27	20	27	20	27	20	27	20	27	10.0	10%
7	15	20	15	20	15	20	15	20	15	20	15	20	15	20	15	20	15	20	15	20	9.0	10%
6	10	14	10	14	10	14	10	14	10	14	10	14	10	14	10	14	10	14	10	14	8.0	10%
5	7	10	7	10	7	10	7	10	7	10	7	10	7	10	7	10	7	10	7	10	7.0	10%
4	5	7	5	7	5	7	5	7	5	7	5	7	5	7	5	7	5	7	5	7	6.0	10%
3	4	5	4	5	4	5	4	5	4	5	4	5	4	5	4	5	4	5	4	5	5.0	10%
2	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	4.0	10%
1	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	3.0	10%
Unr	0 - 365 days											1.0	10%									

Formula 2 OSL 16-14: Serious Violent Offenses:

- i. **Anchor:** Criminal History Score 9+ maximum for OSL 14 is 40 months higher than the maximum for Criminal History Score 9+ for OSL 13. Each additional increase in seriousness level (for 15 and 16) increases the maximum at 9+ 40 months from the previous.
- ii. **Maximum for CHS 0:** 45% off the maximum at CHS 9+
- iii. **Percentage increase in maximum for each additional criminal history score point:** 110%
- iv. **Percentage of the maximum used to establish the minimum:** 75%

Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, term of 25 years to Life																					
17	240	300	352	404	456	508	560	612	664	716	768	49.0	10%									
16	114	153	192	231	270	309	348	387	426	465	504	34.0	10%									
15	101	135	169	203	237	271	305	339	373	407	441	30.0	10%									
14	87	116	145	174	203	232	261	290	319	348	377	26.0	10%									
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
12	52	77	55	84	63	96	71	108	84	121	95	135	105	150	115	170	130	188	147	195	19.0	10%
11	45	66	50	76	55	84	61	92	67	101	73	112	81	123	89	149	98	163	102	170	17.0	10%
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
9	33	55	35	60	39	66	43	72	47	78	51	87	57	96	63	100	66	100	67	120	12.0	10%
8	27	45	29	50	32	54	35	60	39	66	43	72	47	80	53	88	56	90	57	105	10.0	10%
7	21	35	22	38	25	42	27	45	30	50	33	54	35	63	41	70	45	75	46	90	9.0	10%
6	17	28	18	30	19	32	21	35	23	38	25	42	27	45	30	51	33	55	35	75	7.0	10%
5	13	21	13	22	14	24	15	26	17	29	19	33	21	36	23	39	25	45	27	60	6.0	10%
4	10	16	10	17	11	19	12	21	13	23	15	27	17	30	19	33	21	36	21	49	4.0	10%
3	7	11	7	12	8	14	9	15	10	18	11	21	13	23	15	27	17	30	17	39	3.0	10%
2	5	7	5	9	6	11	7	12	8	14	9	16	10	18	11	21	13	23	14	28	2.0	10%
1	3	4	3	5	4	7	4	7	5	9	6	11	7	12	8	14	9	18	10	18	1.0	10%
Unr																						

Formula 3 OSL 13-10: Violent Offenses :

- i. **Anchor:** Criminal History Score 9+ maximum for OSL 10 is 25 months higher than the maximum for Criminal History Score 9+ for OSL 9. Each additional increase in seriousness level (for 11-13) increases the maximum at 9+ 25 months from the previous seriousness level.
- ii. **Maximum for CHS 0:** 45% off the maximum at CHS 9+
- iii. **Percentage increase in maximum for each additional criminal history score point:** 110%
- iv. **Percentage of the maximum used to establish the minimum:** 60%

Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0		1																		Repeat SV/Violent or Repeat DV	
18	Life Sentence without parole																					
17	140	130	122	114	106	98	90	82	74	66	58	50	42	34	26	18	10	2	0	120	10%	
16	114	103	95	87	79	71	63	55	47	39	31	23	15	7	0	0	0	0	0	100	10%	
15	101	90	82	74	66	58	50	42	34	26	18	10	2	0	0	0	0	0	0	90	10%	
14	87	76	68	60	52	44	36	28	20	12	4	0	0	0	0	0	0	0	0	80	10%	
13	59	48	40	32	24	16	8	0	0	0	0	0	0	0	0	0	0	0	0	70	10%	
12	52	41	33	25	17	9	1	0	0	0	0	0	0	0	0	0	0	0	0	60	10%	
11	45	34	26	18	10	2	0	0	0	0	0	0	0	0	0	0	0	0	0	50	10%	
10	39	28	20	12	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	40	10%	
9	19	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	30	10%	
8	17	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	20	10%	
7	14	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10	10%	
6	12	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10%	
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	60	10%
4	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	40	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	30	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	20	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	10	10%
Unr	0 - 365 days																					

Formula 5 OSL 1-5: Class A/B/C offenses:

- i. **Anchor:** Criminal History Score 9+ maximum for OSL 5 is 60 months which aligns with the statutory maximum sentence for class C felonies.
- ii. **Calculation of other maximums at CHS 9+:** Each decrease in OSL decreases the maximum sentence for CHS 9+ by 10.5 months.
- iii. **Maximum for CHS 0:** 20% off the maximum at CHS 9+
- iv. **Percentage increase in maximum for each additional criminal history score point:** 120%
- v. **Percentage of the maximum used to establish the minimum:** 30%



Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
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						496	49.0	10%									
16	114	153	126	168	138						340	34.0	10%									
15	101	135	111	148	122						300	30.0	10%									
14	87	117	96	128	106						260	26.0	10%									
13	59	99	65	108	71						220	22.0	10%									
12	52	87	57	96	63						195	19.0	10%									
11	45	76	50	84	55						170	17.0	10%									
10	39	65	43	71	47						145	14.0	10%									
9												12.0	10%									
8												10.0	10%									
7												9.0	10%									
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																					

New range values expands the SW Corner (GREEN)

New range values create “straddle cells” where standard sentences may be a local sentence (<12.05) or a state sentence (>12.05) (BLUE)

Largely applies to Class C felonies and low level Class B felonies.

Proposed Recommendation: New Felony Sentencing Guidelines Grid

New Columns

- Repeat Violent/Serious Violent and Repeat DV (as articulated in RCW 9.94A.525(21))
 - Elimination of multipliers in criminal history score
 - For qualifying individuals, the maximum of the range increases by the percentage indicated in the repeat offending column
 - Value of the column is set at 10%. So if the standard range is 45-76 months, the expanded range would be 45-83 months (76 + 7)
 - This is not an aggravated/exceptional sentence
 - A separate grid with the expanded maximums could be printed in statute to avoid the need for manual calculation.

Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0		1		2		3		4		5		6		7		8		9+		Agg Departure Cap	Repeat SV/Violent or Repeat DV										
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	352	252	336	370	264	352	387	277	370	407	291	388	427	306	408	449	321	428	471	337	450	495	354	472	519	372	496	546	49.0	10%
16	114	153	168	126	168	185	138	185	204	152	203	223	168	224	246	184	246	271	203	271	298	223	298	328	245	327	360	255	340	374	34.0	10%
15	101	135	149	111	148	163	122	163	179	134	179	197	148	197	217	163	217	239	179	239	263	197	263	289	217	289	318	225	300	330	30.0	10%
14	87	117	129	96	128	141	106	141	155	116	155	171	128	171	188	141	188	207	155	207	228	170	227	250	188	250	275	195	260	286	26.0	10%
13	59	99	109	65	108	119	71	119	131	79	131	144	86	144	158	95	159	175	105	175	193	115	192	211	127	212	233	132	220	242	22.0	10%
12	52	87	96	57	96	106	63	106	117	70	116	128	77	128	141	84	141	155	93	155	171	102	170	187	112	188	207	117	195	215	19.0	10%
11	45	76	84	50	84	92	55	92	101	61	101	111	67	112	123	73	123	135	81	135	149	89	149	164	98	163	179	102	170	187	17.0	10%
10	39	65	72	43	71	78	47	78	86	52	86	95	57	95	105	63	105	116	69	115	127	76	127	140	83	139	153	87	145	160	14.0	10%
9	19	33	36	22	37	41	26	43	47	30	50	55	34	57	63	39	66	73	45	76	84	52	87	96	60	100	110	72	120	132	12.0	10%
8	17	28	31	19	33	36	22	38	42	26	43	47	30	50	55	34	58	64	40	66	73	46	76	84	52	88	97	63	105	116	10.0	10%
7	14	24	26	17	28	31	19	32	35	22	37	41	25	43	47	29	49	54	34	57	63	39	65	72	45	75	83	54	90	99	9.0	10%
6	12	20	22	14	23	25	16	27	30	18	31	34	21	36	40	24	41	45	28	47	52	32	54	59	37	63	69	45	75	83	7.0	10%
5	3	12	13	4	14	15	5	17	19	6	20	22	7	24	26	8	29	32	10	35	39	12	42	46	15	51	56	18	60	66	6.0	10%
4	2	9	10	3	11	12	4	14	15	5	17	19	6	20	22	7	24	26	8	29	32	10	35	39	12	42	46	14	49	54	4.0	10%
3	2	7	8	2	9	10	3	11	12	4	13	14	4	16	18	5	19	21	6	23	25	8	27	30	10	33	36	11	39	43	3.0	10%
2	0	3	3	1	6	7	2	7	8	2	8	9	3	10	11	3	12	13	4	14	15	5	17	19	6	21	23	8	28	31	2.0	10%
1	0	2	2	0	3	3	1	5	6	1	6	7	2	7	8	2	8	9	3	10	11	3	12	13	4	14	15	5	18	20	1.0	10%
Unr	0 - 365 days																															

Proposed Recommendation: New Felony Sentencing Guidelines Grid

New Columns

Aggravated Departure Cap

- Establishes an advisory cap for aggravated departures above the maximum.
- Not mandatory, but could specify that sentences above the cap are presumptively unreasonable.
- All aggravated sentences still appealable
- Amount of advisory cap is calculated as 10% of the maximum sentence in the row.

Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
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	49.0	10%
16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																					

Change in Ranges (Yellow = decrease; purple = increase)

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or DV											
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	0	0	2	3	4	6	7	9	11	15	15	20	10	13	0	0	-15	-20	-39	-52	49.0	10%	
16	-8	-67	-8	-66	-5	-59	-1	-50	3	-41	10	-29	8	-24	8	-18	-11	-29	-43	-57	34.0	10%	
15 (malicious explosion 1)	-139	-185	-139	-185	-138	-184	-136	-181	-133	-176	-128	-171	-133	-177	-141	-187	-153	-204	-186	-248	30.0	10%	
15 (trafficking 1)	-22	-85	-23	-86	-21	-81	-19	-74	-17	-67	-12	-58	-16	-56	-19	-53	-40	-68	-73	-97	30.0	10%	
14	-35	-47	-37	-49	-38	-50	-37	-49	-37	-48	-34	-45	-40	-53	-45	-60	-69	-91	-103	-137	26.0	10%	
13	-34	-24	-37	-27	-39	-27	-41	-30	-37	-28	-34	-24	-31	-21	-28	-18	-25	-35	-45	-98	22.0	10%	
12	-25	-14	-28	-17	-31	-19	-32	-21	-28	-18	-24	-14	-21	-11	-18	-8	-15	-25	-35	-85	19.0	10%	
11	-5	9	-7	9	-6	11	-6	11	0	0	0	0	0	0	0	0	0	0	0	-28	17.0	10%	
10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14.0	10%	
9 (Malicious placement imitation device 1)	-73	-90	-79	-98	-85	-103	-90	-107	-94	-111	-98	-115	-102	-119	-106	-123	-110	-127	-114	-198	12.0	10%	
9 (Criminal mistreatment 1; malicious explosion 3)	-31	-35	-34	-37	-36	-38	-37	-36	-35	-34	-33	-32	-31	-30	-29	-28	-27	-26	-25	-24	-78	12.0	10%
9	-11	-8	-13	-10	-15	-10	-16	-13	-10	-17	-14	-11	-18	-15	-12	-9	-6	-3	0	-51	12.0	10%	
8	-4	2	-6	-1	-8	-3	-10	-7	-4	-11	-8	-5	-12	-9	-6	-3	0	3	6	-39	10.0	10%	
7	0	5	-4	1	-6	-1	-8	-5	-2	-9	-6	-3	-10	-7	-4	-1	2	5	8	-26	9.0	10%	
6	0	7	-1	4	-5	0	-7	-4	-1	-8	-5	-2	-9	-6	-3	0	3	6	9	-27	7.0	10%	
5	-2	0	-8	0	-8	0	-9	-6	-3	-10	-7	-4	-11	-8	-5	-2	1	4	7	-36	6.0	10%	
4	0	1	-2	0	-8	0	-8	-5	-2	-9	-6	-3	-10	-7	-4	-1	2	5	8	-35	4.0	10%	
3	1	5	0	1	-1	-1	-5	-2	1	-6	-3	0	-7	-4	-1	2	5	8	11	-29	3.0	10%	
2	0	0	0	0	-1	-2	-1	2	-1	-6	-3	0	-7	-4	-1	2	5	8	11	-29	2.0	10%	
1	0	0	1	0	-1	0	0	0	-1	-1	-1	-3	-9	-4	-10	-6	-13	-7	-17	-11	1.0	10%	
Unr	0 - 365 days																						

But! Not all of these changes are “real”

- No convictions for Malicious Explosion 1
- Since some ranges in current grid exceed stat max, it's not a “real” decrease

Also, we know that under the current grid, judges sentence, on average, at 30% of the range. Changes in the maximum may overestimate the reduction in actual sentences.

Finally, this assumes offenses remain where they are now, but the grid group acknowledges that the Legislature will likely recalibrate offenses which could result in offenses having similar ranges to what they are in the current grid.

Change in Ranges

(Yellow = decrease; purple = increase)

	0		1		2		3		4		5		6		7		8		9+		Agg Departure Cap	Repeat SV/Violent or DV	
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	0	0	2	3	4	6	7	9	11	15	15	20	10	13	0	0	-15	-20	-39	-52	49.0	10%	
16	-8	-67	-8	-66	-5	-59	-1	-50	3	-41	10	-29	8	-24	8	-18	-11	-29	-43	-57	34.0	10%	
15 (malicious explosion 1)	-139	-185	-139	-185	-138	-184	-136	-181	-133	-176	-128	-171	-133	-177	-141	-167	-153	-204	-186	-248	30.0	10%	
15 (trafficking 1)	-22	-85	-23	-86	-21	-81	-19	-74	-17	-67	-12	-58	-16	-56	-19	-53	-40	-68	-73	-97	30.0	10%	
14	-35	-47	-37	-49	-38	-50	-37	-49	-37	-48	-34	-45	-40	-53	-45	-60	-69	-91	-103	-137	26.0	10%	
13	-34	-24	-37	-27	-39	-27	-41	-28	-42	-26	-42	-25	-57	-41	-62	-43	-82	-65	-108	-98	22.0	10%	
12	-25	-14	-28	-17	-31	-19	-32	-19	-34	-19	-35	-17	-53	-39	-56	-40	-72	-57	-93	-85	19.0	10%	
11	-5	9	-7	9	-6	11	-6	13	-5	16	-3	21	-17	6	-19	5	-31	-7	-47	-28	17.0	10%	
10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14.0	10%	
9 (Malicious placement imitation device 1)	-73	-90	-79	-98	-85	-103	-90	-110	-94	-113	-98	-118	-116	-140	-125	-148	-148	-176	-168	-198	12.0	10%	
9 (Criminal mistreatment 1; malicious explosion 3)	-31	-35	-34	-37	-36	-38	-37	-39	-37	-38	-37	-36	-52	-54	-55	-56	-68	-70	-77	-78	12.0	10%	
9	-11	-8	-13	-10	-15	-10	-16	-11	-16	-10	-17	-9	-31	-26	-34	-28	-47	-43	-57	-51	12.0	10%	
8	-4	2	-6	-1	-8	-3	-10	-4	-11	-3	-11	-3	-27	-22	-31	-25	-34	-28	-45	-39	10.0	10%	
7	0	5	-4	1	-6	-1	-8	-3	-10	-5	-11	-4	-23	-18	-27	-23	-32	-26	-33	-26	9.0	10%	
6	0	7	-1	4	-5	0	-7	-3	-9	-5	-11	-7	-17	-13	-24	-20	-29	-26	-32	-27	7.0	10%	
5	-2	0	-8	0	-8	0	-9	1	-15	-4	-24	-13	-30	-18	-38	-25	-47	-30	-54	-36	6.0	10%	
4	0	1	-2	0	-8	0	-8	0	-9	1	-15	-4	-24	-13	-32	-22	-40	-27	-48	-35	4.0	10%	
3	1	5	0	1	-1	-1	-5	1	-7	0	-11	-3	-15	-6	-25	-15	-33	-23	-39	-29	3.0	10%	
2	0	0	0	0	-1	-2	-1	-3	-9	-4	-10	-6	-13	-7	-17	-11	-27	-22	-34	-29	2.0	10%	
1	0	0	1	0	-1	0	0	0	-1	-1	-1	-3	-9	-4	-10	-6	-13	-7	-17	-11	1.0	10%	
Unr	0 - 365 days																						

Complexities and Errors:

- *Must know what other statutes apply (e.g., stat max) to determine if standard range is valid sentence.*
 - **Aligns sentences with all other statutes (e.g., stat max)**
- *Frequent errors reported by CFC and complexities reported by DOC regarding CHS calculations particularly because of multipliers.*
 - **Eliminates multipliers while still holding individuals accountable for repetitive offending behaviors.**
- *No answer to question: “why are the ranges what they are?”*
 - **Formula makes it clear exactly why ranges are the way they are.**
- *Sometimes an increase in CHS will increase sentence, but not always*
 - **Consistent increases in sentences with an increase in CHS**

Proposed Recommendation: New Felony Sentencing Guidelines Grid

SUMMARY

Effectiveness of the Sentencing System:

- *Limited judicial discretion to tailor sentences to the characteristics of the case*
 - *Narrow and inconsistent ranges*
 - **Wider and consistent ranges**
 - *Strict cut offs for local and state sanctions*
 - **No strict cut off for local and state sanctions**
 - *Some sentencing ranges that aren't even applicable*
 - **All sentence ranges are valid sentences.**
- *Limited transparency in determination of sentence*
 - *Characteristics of criminal history operate “behind the scenes” to aggravate sentences*
 - **Increased transparency with expanded ranges rather than hidden moves in CHS**

Effectiveness of the Sentencing System:

- *Inconsistent increases in sentence with CHS and OSL increases. Some changes in CHS matter more than others.*
 - **Consistent increases in sentence with increases in CHS and OSL**
- *Significant changes over 40 years leading to complex exceptions in some instances for some offenses, undermining consistency*
 - *Lack of overarching framework leaves limited guidance to legislature when creating new crimes or changing components of existing crimes.*
 - **Framework with clear boundaries and guidance for Legislature**

Public Safety:

- *No present evidence of sentence length in reducing recidivism*
 - **Formulas widen the range without having huge reductions in the maximum**
- *No present evidence of criminal history score being predictive of likelihood of recidivism*
 - **Change in calculation of CHS may actually increase predictiveness of CHS**
- *Collateral consequences from incarceration may actually increase recidivism*
 - **Increased options for local sanctions to reduce disruptions caused by incarceration in state prison while still holding individuals accountable.**

Public Safety:

- *Limited transparency and predictability for victims at sentencing (how is CHS calculated? What is the actual possible sentence?)*
 - **Clear transparency for all parties, including victims, at sentencing**
- *Limited local and rehabilitative options for judges at sentencing which may be more effective at reducing recidivism*
 - **Increased options for local sanctions and increased judicial discretion by widening ranges**
- *Evidence suggests that generalized offending patterns are more predictive of recidivism than specialized/repeat behaviors*
 - **Reduces overemphasis of specialization/repeat offending while still allowing for an increase in accountability in those cases.**