

# Washington State Criminal Sentencing Task Force Meeting

August 4, 2022

10:00am-4:00pm

Hybrid Meeting: In-Person and Via ZOOM

# Agenda

## Agenda

- Task Force Introductions and Updates
- Review, Discuss, and Provide Input on **Potential Recommendations**: Sentencing Alternatives
- Review and Discuss **Proposed Recommendation: The New Felony Sentencing Guidelines Grid**. This is the proposed recommendation that will be going up for consensus deliberation at the August 30th and September 1st meeting.

# Agenda

**9:30am**

**Coffee and Informal  
Conversation**

**10:00am**

**Welcome and Agenda Review**

**10:10am**

**Introductions & Updates**

**10:30am**

**Potential Recommendations:  
Sentencing Alternatives**

**11:45am**

**Proposed Recommendation:  
The New Felony Sentencing  
Guidelines Grid**

**12:00pm**

**LUNCH**

**12:30pm**

**Cont. Proposed Recommendation:  
The New Felony Sentencing  
Guidelines Grid**

**3:15pm**

**Preparing for Consensus  
Deliberations at the Next Meeting**

**3:30pm**

**Public Comment**

**3:50pm**

**Recap, Action Items, & Closing  
Reflections**

**4:00pm**

**Adjourn**

# Hybrid Meeting Groundrules

## In-Person Room

**Avoid Side Conversations:** avoid cross-talks and side conversations as they can be audibly distracting and confusing to your remote colleagues.

**Speak Clearly:** There are mics around the room but to ensure those in the Zoom room can hear, please speak up.

**Mute Electronic Devices**

**Reminder, you are on camera and this meeting is being recorded.**

# Hybrid Meeting Groundrules

## In the ZOOM Room

**Mute your audio:** Whether you've joined by phone or video, please mute your audio until just before it's your turn to speak. That helps improve the sound quality for everyone. **If you cannot hear people speaking in the room, please let your Zoom facilitator (Maggie Counihan) know.**

**Camera On (if doable):** Strongly encourage cameras on so those both in-person and virtual can see everyone who is present and participating. everyone to join by video. Personal presence is important for collaborative group meetings, and even more critical for these hybrid meetings.

**Zoom Chat Reminder:** We have disabled the private chat function to adhere to your groundrule of no side conversations.

**\*\*\*If you want to chat to the facilitators or pass along info to the Task Force, please send a chat message to Maggie Counihan.**

10:10 -  
10:30am

# Task Force Introductions & Updates

- **Members and Alternates:** Please state name, affiliation, and constituency you represent.

# Task Force Groundrules

## Criminal Sentencing Task Force Groundrules

- **Be Respectful**
  - One person speaks at a time; listen when others are speaking, avoid interrupting and side conversations.
  - Keep comments brief so everyone gets a chance to share their thoughts. Avoid dominating the discussion.
  - Hear and respect all opinions.
  - Silence cell phones and refrain from using laptops during the meeting, except to take notes.
- **Be Constructive**
  - Acknowledge that all participants bring with them legitimate purposes, goals, concerns, and interests, whether or not you are in agreement with them.
  - Openly explore issues.
  - **Act in “good faith,” seeking to resolve conflicts and identify solutions.**
  - State concerns and interests clearly, listen carefully to and assume the best in others. Leave negative assumptions and attitudes at the door.
  - **Share comments that are solution focused, rather than repeating past discussions.**
  - It’s OK to disagree, it is not OK to make personal attacks.
  - Minimize the use of jargon and acronyms, define and explain when used.
  - **Work towards consensus. Be willing to compromise.**
  - Ask for clarification when uncertain of what another person is saying. Ask questions rather than make assumptions.
- **Be Productive**
  - Begin and end meetings on time.
  - Respect time constraints.
  - Adhere to the agenda as much as possible, focusing on the subject at hand.

# CSTF 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.

10:20 -  
10:30am

## Updates

- Co-Chair Updates
- Updates from Facilitation Team
  - Workplan

# 2022 Work Plan – Adjusts to the Plan

- **August 4th: 1)** Sentencing Alternatives Subgroup potential recommendations.  
2) Proposed Recommendation for new felony sentencing guidelines grid
- **August 31<sup>st</sup>:** The rest of the Proposed Recommendations.
- **September 1st:** Consensus Deliberations on the Proposed Recommendation for the New Sentencing Guidelines Grid
- **October:** Consensus Deliberations on all the rest of the Proposed Recommendations
- **November:** Last opportunity for consensus on remaining proposed recommendations. Review Draft Report.
- *Nov 30<sup>th</sup> Joint Legislative Work Session is being rescheduled. Date TBD.*
- **December:** Final report – last review and opportunity to address any unresolved issues

10:30 –  
11:45am

# Potential Recommendations: Sentencing Alternatives

# Overview of Sentencing Alternatives Work

## **Fall 2021-Spring 2022:**

Discussion on current sentencing alternatives, including

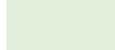
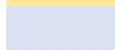
- Program overview
- Intended purpose
- Statutory Eligibility Criteria: Current offense, Prior record, Prior participation in alternative
- Any past/current efforts or entities looking at potential changes?

Presentations from DOC, Sex Offender Policy Board

Reviewed: spreadsheets of current and simulated grids with offense-specific eligibility for DOSA, FOSA, and FTOW, including specific offenses and guideline ranges eligible for an alternative.

# November 2021 Task Force Meeting: Presentation on Sentencing Alternatives and Looked at How Sentencing Alternatives could Integrate onto the (Current) Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+										
<b>XVI</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																			
<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																			

-  Cells in the green zone are presumptive jail sentences. Depending on the offense, individuals may be eligible for a residential DOSA or SOSSA disposition.
-  Cells in the yellow zone may be eligible for a residential DOSA, FOSA, or SOSSA disposition depending on the offense and the types of offenses in an individual's criminal history.
-  Cells in the blue zone may be eligible for a prison DOSA, FOSA, or SOSSA disposition depending on the offense and the types of offenses in an individual's criminal history.
-  Cells in the hatched zone may be eligible for the FTOW sentencing alternative.

# Overview of Sentencing Alternatives Work cont.

## **Special Sex Offender Sentencing Alternative – SSOSA**

- Reviewed program overview & statutory eligibility criteria
- Conversations w/Chair & Vice-Chair of Sex Offender Policy Board (SOPB) on SSOSA, sentencing for sex offenses, and ways the SOPB & subgroup could coordinate their work
- Chair of House Public Safety Committee asked the SOPB to review SSOSA (including eligibility criteria), lifetime supervision, washouts, and treatment (capacity, requirements, need, housing barriers, etc.). The request directs SOPB to develop policy recommendations with research & guiding principles for each topic. Report due to Legislature December 2022.

# Potential Recommendation 38

*Include & visually depict all sentencing alternatives on the felony sentencing guidelines grid. \*note a new version of the grid recommendation will be presented later today*

		Simulated Grid																					
		0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent										
		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																					
Zone 4: State Prison	17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos
	16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos
	15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos
	14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos
	13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos
	12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos
	11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos
	10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos
	Zone 3: DOSAs, FOSAs, State Prison	9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos
8		14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos
Zone 2: CISRS, DOSAs, FOSAs <=12 Jail; >12 Prison	7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos
	6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos
Zone 1: CISRS, RDOSAs, Jail	5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos
	4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
	3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
	2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos

# Potential Recommendation 38, cont.

*Reducing sentencing implementation complexities and errors:*

- Group discussed modifying eligibility criteria to align w/OSL while retaining the nexus between the offense and treatment/underlying need.
- All sentencing options would be included on the guidelines grid and increase transparency regarding when sentencing alternatives could be considered

*Improving the effectiveness of the sentencing system & Promoting and improving public safety:*

- Recognizing concern about implications to public & survivor/victim safety if eligibility expanded to individuals facing convictions in higher OSLs, noted that individuals should have access to treatment when needed.
- Visual overlay of sentencing alternatives would remind all parties of treatment-oriented sentencing options to encourage consideration of applicable sentencing alternative in all possible situations

# Overview: Prison & Residential Drug Offender Sentencing Alternatives

Prison DOSA: provide substance use disorder treatment and community supervision for individuals diagnosed with a substance disorder who have committed a drug or other statutory eligible crimes

Residential DOSA: residential substance use disorder treatment in the community in lieu of serving time in prison.

Current eligibility considers current offense, prior record and, for pDOSAs: person cannot have received more than 2 DOSAs in the last 10 years

## Potential Recommendation 39

*Potential Recommendation 39: Eliminate eligibility exclusions related to prior convictions for a violent offense from Sentencing Alternatives. This would eliminate eligibility exclusions related to prior convictions for a violent offense from pDOSAs and rDOSAs (prison and residential drug offense sentencing alternatives).*

# Potential Recommendation 39, cont.

## How meets the 3 policy goals:

### *Reducing sentencing implementation complexities and errors:*

- Current alternatives vary as to whether an individual with a past felony violent conviction could be considered for an alternative. In 2020, Legislature eliminated exclusion for prior violent convictions, unless committed with a deadly weapon, for FOSA.
- Eliminating criteria/exclusions that do not correspond to the sentencing guidelines grid (such as prior convictions) increases simplicity.
- Mental Health Sentencing Alternative (based on 2020 CSTF Rec) does not exclude people based on prior record.

### *Improving the effectiveness of the sentencing system & Promoting and improving public safety:*

- Could increase instances where substance use treatment-oriented sentencing options could be considered (when substance use disorder contributed to the commission of a crime).
- Eliminating exclusions based on prior history would not automatically lead to a sentencing alternative—court would still consider the individuals' circumstance and needs, and if those needs could be safely met in the community.

# Potential Recommendation 40

*Potential Recommendation 40: eliminate cap on the number of DOSA sentences that an individual can receive in a 10-year period.*

# Potential Recommendation 40, cont.

## **How meets the 3 policy goals:**

### *Reducing sentencing implementation complexities and errors:*

- Current eligibility excludes individuals w/more than 2 DOSAs in past 10 years, however individuals often come to DOC with multiple DOSAs.
- pDOSAs eligibility criteria would more closely align with eligibility for rDOSAs.

### *Improving the effectiveness of the sentencing system:*

- Criteria would reflect current understanding of substance use disorders—that recovery is a process. Group discussed potential modifications to revocations.

### *Promoting and improving public safety:*

- Prior participation in pDOSAs would no longer prevent court from considering another DOSAs sentence. Court would still consider community safety and an individuals' unique circumstance.
- Eliminating all exclusions/eligibility criteria may not reduce geographic disparities or increase access to programs. Some exclusions due to safety of other participants in programs.

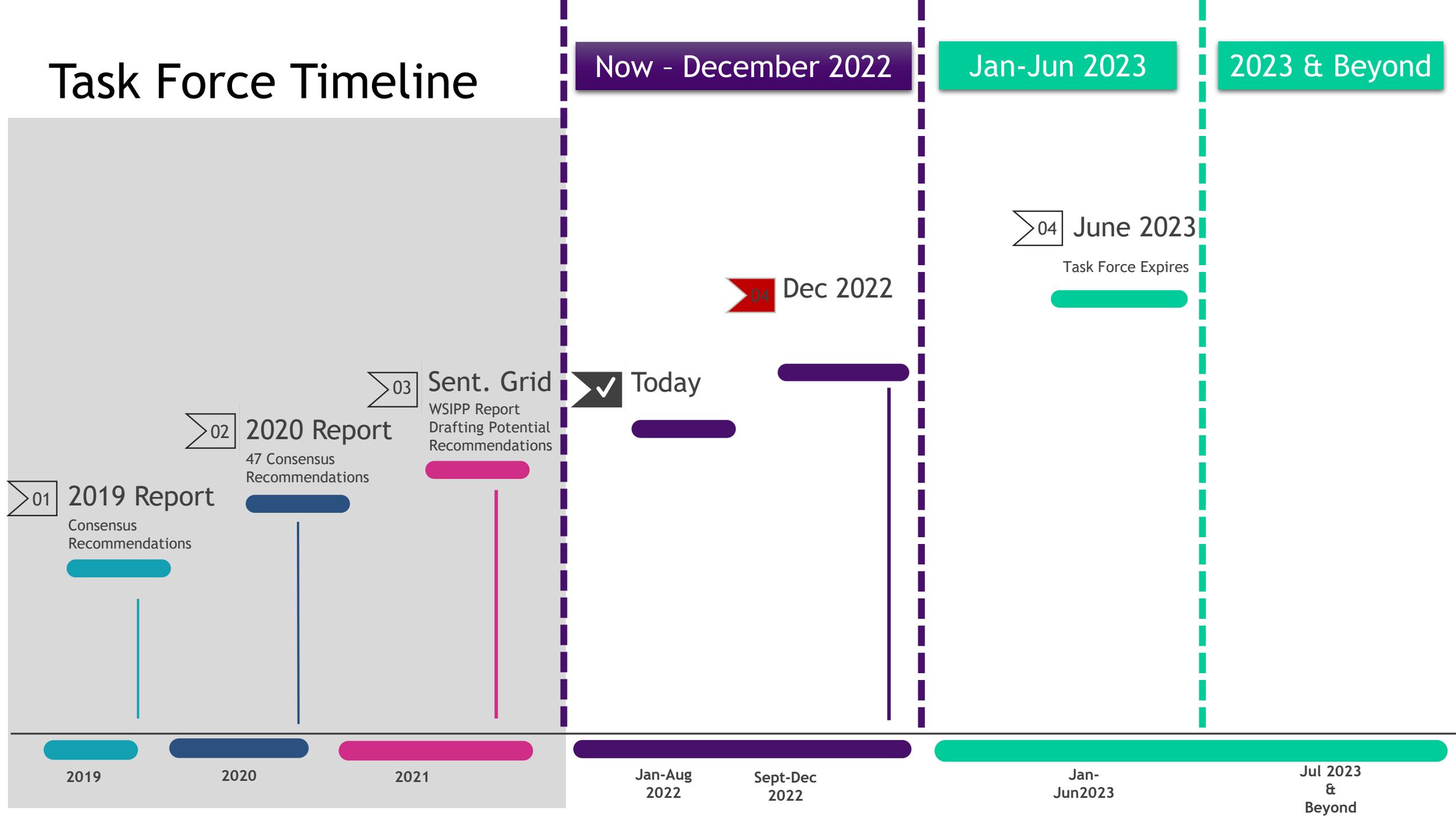
11:45 – 3:15

**Proposed Recommendation:  
The New Felony Sentencing  
Guidelines Grid**

11:45 – noon

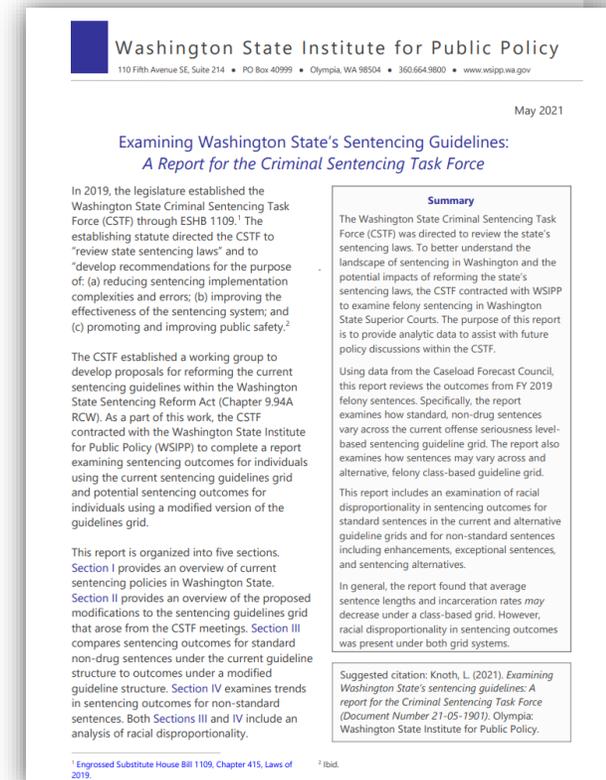
**But First, Let's Recap How  
We Got Here....**

# Task Force Timeline



# WSIPP Report for the CSTF

- Recommended by Task Force (Rec 1 of 2020 CSTF Report)
- Examined sentencing outcomes for individuals using current sentencing guidelines grid and potential outcomes for individuals using a modified version of the guidelines grid.
- Report purpose: to provide analytic data to assist Task Force in discussions that began in **May 2021** about potential changes to the sentencing guidelines grid.
- WSIPP presented report & findings to the Task Force on **May 6, 2021**



# Sentencing Grid Subgroup Task began in May 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

# 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

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
- Criminal History Score
- Sentencing Alternatives

- **March 2021 – Present:** Grid Subgroup meeting weekly to develop potential recommendations for full Task Force to consider and give feedback.
- **From August 2021 – July 2022:** These Potential Recommendations presented at full Task Force meetings.

# Vertical Axis Potential Recommendations

## 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

## 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

## 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+

## Potential Recommendations # 14

- # 14: Formulaic approach for OSL 6-9

# Horizontal Axis Potential Recommendations

## Potential Recommendations 15

# 15: Eliminate the offense-specific multipliers. And create a new column on the grid for repeat serious violent/violent offending.

## Potential Recommendations 16-18

# 16: Eliminate the aggravated departures that are not required to be pled/proven.

# 17: Create a new column on the grid with a cap on the maximum aggravated departure length

# 18: Create a new column on the grid with the maximum **mitigated** departure length.

## Potential Recommendations 19-25

# 19: Eliminate the mandatory consecutive sentencing for serious violent offenses and make sentences concurrent.

# 20: Eliminate the mandatory consecutive sentencing for serious violent offenses and add an aggravating factor for cases involving serious violent offenses with multiple victims.

# 21: Modify the mandatory consecutive sentencing for serious violent offenses such that it applies only when the offenses are for different victims.

# 22: Eliminate the consecutive sentencing for firearm offenses and make those sentences concurrent.

# 23: Eliminate the mandatory consecutive sentencing for firearms offenses but allow judges discretion to make sentences consecutive.

# 24: Eliminate the mandatory consecutive sentencing for firearms offenses but add aggravating factors that may address the cases with most concern about culpability.

# 25: Modify the mandatory consecutive sentencing laws for firearms offenses such that sentences for different criminal events are consecutive, but sentences for multiple offenses within a single criminal event are concurrent

## Potential Recommendations 26-27a-c

# 26: Change the legal procedure for three-strikes laws to mirror aggravating factors such that the three-strikes must be treated as elements of the crime

#27a: Eliminate and do not replace 3-strikes.

#27b: Replace 3-strikes mandatory sentence with determinate plus - 25 years with opportunity for release.

#27c: Replace 3-strikes mandatory sentence with mandatory minimum 25 years with judicial discretion up to life

# Horizontal Axis Potential Recommendations Cont.

## Potential Recommendations 33

### # 33: Offense Classification Proposal

Proposal A

Proposal B

## Potential Recommendations 34-37

# 34: Maintain washout period start upon release from confinement, but base that on release from confinement for the original sentence or the final period of confinement under inmate status. Washout periods reset upon conviction for a new criminal offense that is a felony or gross misdemeanor. If an individual is convicted of three separate misdemeanor offenses, the washout period resets upon the third conviction. Confinement for a technical violation will not reset the washout period.

# 35: Class A Felony Washout Rules

# 36: Class B Felony Washout Rules

# 37: Class C Felony Washout Rules

## Potential Recommendations 28-32

# 26: Change the legal procedure for three-strikes laws to mirror aggravating factors such that the three-strikes must be treated as elements of the crime

#27a: Eliminate and do not replace 3-strikes.

#27b: Replace 3-strikes mandatory sentence with determinate plus - 25 years with opportunity for release.

#27c: Replace 3-strikes mandatory sentence with mandatory minimum 25 years with judicial discretion up to life

## Potential Recommendations 38-40

# 38: Include & visually depict all sentencing alternatives on the felony sentencing guidelines grid.

# 39: Eliminate eligibility exclusions related to prior convictions for a violent offense from Sentencing Alternatives. This would eliminate eligibility exclusions related to prior convictions for a violent offense from pDOSA and rDOSA (prison and residential drug offense sentencing alternatives).

# 40: Eliminate cap on the number of DOSA sentences that an individual can receive in a 10-year period.

- **July 2022:** Grid Subgroup held two all-day sessions to incorporate Task Force input to 1) stitch together specific recommendations having to do w/formulaic approach and structure for the sentencing guidelines grid into one holistic new grid proposal.
- **August 2022:** Grid Subgroup working on remaining *potential* recommendations to turn them into *proposed* recommendations for consensus. This involves incorporating input, revising, and working to narrow down those with multiple options into a single proposal.

## Step 1. Categorize the 40+ Potential Recommendations, Identifying their Connectivity to One Another

<b>Formula and Post Formula Adjustments</b>	<b>Potential Recommendations #:</b> 3, 6, 7, 8, 9, 10, 13, 14
<b>Offense Classification</b>	Potential Recommendations #: 2, 13a, 28a, 33
<b>New Columns</b>	Potential Recommendations #: 15, 17, 19
<b>Sentencing Discretion</b>	Potential Recommendations #: 16, 19, 20, 21, 22, 23, 24, 25, 27a, 27b, 27c
<b>Criminal History Score</b>	Potential Recommendations #: 28, 28a, 29a, 29b, 30, 31, 32, 34, 35a, 35b, 35c, 35d, 35e, 36a, 36b, 37a, 37b
<b>Foundational</b>	Potential Recommendations #: 1, 5
<b>Continuing Work</b>	Potential Recommendations #: 4
<b>Post-Sentencing Reform</b>	Potential Recommendations #: 12
<b>Legal Procedures and Other Sentencing Laws</b>	Potential Recommendations #: 26, 11
<b>Sentencing Alternatives</b>	Potential Recommendations #: 9.1, 38, 39, 40

## Step 2. Guidelines Grid Specific – Formula and Structure

<b>Formula and Post Formula Adjustments</b>	Potential Recommendations #: 3, 6, 7, 8, 9, 10, 13, 14
<b>Offense Classification</b>	Potential Recommendations #: 2, 13a, 28a, 33
<b>New Columns</b>	Potential Recommendations #: 15, 17, 19
<b>Sentencing Discretion</b>	Potential Recommendations #: 16, 19, 20, 21, 22, 23, 24, 25, 27a, 27b, 27c
<b>Criminal History Score</b>	Potential Recommendations #: 28, 28a, 29a, 29b, 30, 31, 32, 34, 35a, 35b, 35c, 35d, 35e, 36a, 36b, 37a, 37b
<b>Foundational</b>	Potential Recommendations #: 1, 5
<b>Continuing Work</b>	Potential Recommendations #: 4
<b>Post-Sentencing Reform</b>	Potential Recommendations #: 12
<b>Legal Procedures and Other Sentencing Laws</b>	Potential Recommendations #: 26, 11
<b>Sentencing Alternatives</b>	Potential Recommendations #: 9.1, 38, 39, 40

## All of These Potential Recommendations

<b>Formula and Post Formula Adjustments</b>	Potential Recommendations #: 3, 6, 7, 8, 9, 10, 13, 14
<b>Offense Classification</b>	Potential Recommendations #: 2, 13a, 28a, 33
<b>New Columns</b>	Potential Recommendations #: 15, 17, 19

**Have Been Revised and Stitched Together into  
One Proposed Recommendation:**

# Proposed Recommendation: The New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+	10% of max row sent	10% of cell maximum or 1 month, whichever is greater												
											<b>Agg Departure Cap (advisory, greater than is presumptively unreasonable)</b>	<b>Repeat SV/Violent or Repeat DV 9.94A.525(21)</b>												
<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												OSL 17 anchor	240 minimum at CHS 0										
													Increase for each additional CHS	1.05 percent of previous maximum										
<b>17</b>	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	49.0	10%	Minimum	0.75 percent of max
<b>16</b>	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%	SV minimum	0.75 maximum
<b>15</b>	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%	Anchor minus next anchor divided by:	7 31
<b>14</b>	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%	Max at 0 CHS	0.45 percent of max at CHS 9+
<b>13</b>	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%	Increase for each additional CHS	1.1 percent of previous maximum
<b>12</b>	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%	Violent Minimum	0.6 percent of max
<b>11</b>	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%	Violent range inc from prev CHS 9+ max	25 months from previous max
<b>10</b>	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%	SV range inc from prev CHS 9+ max	40 months from previous max
<b>9</b>	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%	OSL 9 Anchor	120 maximum CHS 9+
<b>8</b>	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%	Anchor minus next anchor divided by:	4 15
<b>7</b>	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%	Max at 0 CHS	0.275 percent of max at CHS 9+
<b>6</b>	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%	Increase for each additional CHS	1.15 percent of previous maximum
<b>5</b>	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%	Minimum	0.6 percent of max
<b>4</b>	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%	OSL 5 Anchor	60 maximum CHS 9+
<b>3</b>	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%	OSL 1 Anchor	18 maximum CHS 9+
<b>2</b>	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%	Anchor minus next anchor divided by:	4 10.5
<b>1</b>	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%	CHS 9+ max	9 CHS 9+ max
<b>Unr</b>	0 - 365 days												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										

12:00 –  
12:30pm

**LUNCH**

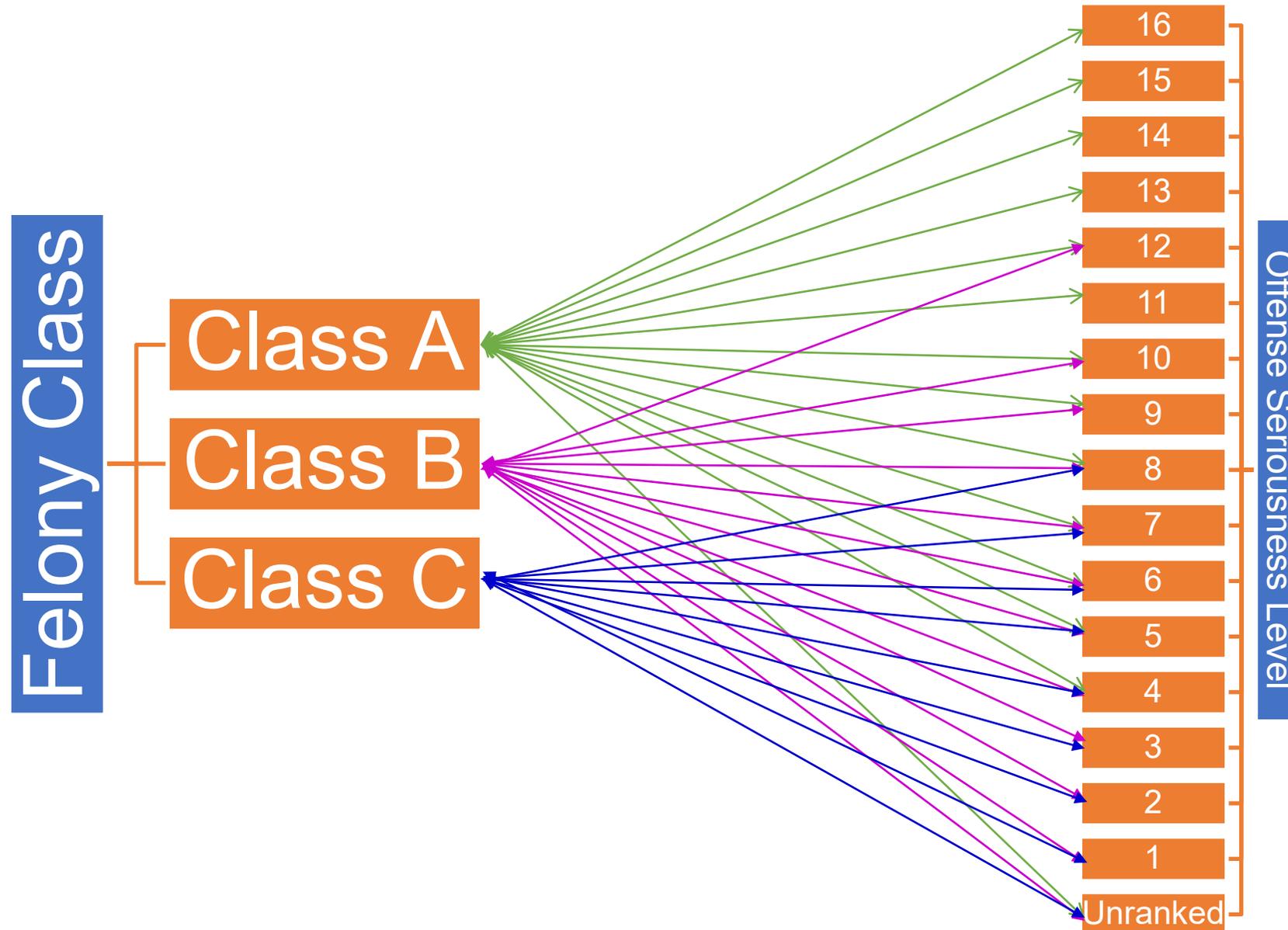
12:30- 3:15pm

**Proposed Recommendation:  
The New Felony Sentencing  
Guidelines Grid**

# Current Grid

	0	1	2	3	4	5	6	7	8	9+										
<b>XVI</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																			
<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																			

# Varying Considerations of Offense Seriousness



Are Class A's more serious than Class B or Class C?

Are Class B's more serious than Class C?

# Current Grid

**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																			
<b>XVI</b>																				
<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																			

# Current Grid

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

	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	<b>13%</b>	160	<b>11%</b>	171	<b>10%</b>	184	<b>36%</b>	216	<b>14%</b>	236	<b>24%</b>	277	<b>19%</b>	318
XI	78	102	86	114	95	125	102	136	111	147	126	158	146	194	159	211	195	245	210	280
X	51	68	57	75	62	87	67	89	72	96	77	97	98	130	108	144	129	171	149	188
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																			

# Current Grid

**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+											
XVI	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																				
XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548	
XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397	
XIII	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397	
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	<b>100% increase in min</b>		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	15	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	11	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	4	4	12	12.05	14	4	12	12.05	14	14	18	17	22	22	29	
Unr	days																				

**No change in max**

**33% increase in max**

# Current Grid

**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+										
	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	Life																			
XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
XIII	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397
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	<b>6 mo</b>		<b>2 mo</b>		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	15	16	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	22	42	41	54	51	68	62	82	72	96
IV	3	9	6	12	12.05	14	13	17	15	20	<b>8 mo</b>		<b>2 mo</b>		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	1	2	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																			

# Current 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																				
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	181	149	195	157	216	178	237	198	297
XI	78	102	86	114	95	125	102	136	111	147	120	159	131	175	147	195	168	216	188	297
X	51	68	57	75	62	82	67	89	72	96	77	101	84	105	87	116	98	127	108	144
IX	31	41	36	48	41	54	46	61	51	68	57	74	61	81	67	89	77	102	87	116
VIII	21	27	26	34	31	41	36	48	41	54	46	61	51	68	57	74	61	81	67	89
VII	15	20	21	27	26	34	31	41	36	48	41	54	46	61	51	68	57	74	61	81
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																			

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

**\*OSL 14 is 50% of the maximum**

# Current Grid

	0	1	2	3	4	5	6	7	8	9+										
XVI	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																			
XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
XIII	123	164	134	178	144	1													98	397
XII	93	123	102	136	111	1													40	318
XI	78	102	86	114	95	1													10	280
X	51	68	57	75	62	8													49	198
IX	31	41	36	48	41	5													29	171
VIII	21	27	26	34	31	4													08	144
VII	15	20	21	27	26	3													37	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																			

**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).**

# Current 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	230	333	201	347	271	301	281	374	251	300	312	410	330	430	370	433	411	340
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														185	245	210	280
XI	51	68	57														129	171	149	198
X	31	41	36														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	12.05	14	15	20	21	27	26	34	31	41	36	48	46	61	57	75	67	89	77	102
VI	6	12	12.05	14	13	17	15	20	22	29	33	43	41	54	51	68	62	82	72	96
V	3	9	6	12	12.05	14	13	17	15	20	22	29	33	43	43	57	53	70	63	84
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**

# Current Grid Summary

## Complexities and Errors:

- Must know what other statutes apply (e.g., stat max) to determine if standard range is valid sentence.
- Frequent errors reported by CFC and complexities reported by DOC regarding CHS calculations particularly because of multipliers.
- No answer to question: “why are the ranges what they are?”
- Sometimes an increase in CHS will increase sentence, but not always.

# Current Grid Summary

## Effectiveness of the sentencing system:

- Limited judicial discretion to tailor sentences to the characteristics of the case.
  - Narrow and inconsistent ranges
  - Strict cut offs for local and state sanctions
  - Some sentencing ranges are not applicable
- Limited transparency in determination of sentence
  - Characteristics of criminal history operate “behind the scenes” to aggravate sentences
  - Inconsistent increases in sentence with CHS and OSL increases. Some changes in CHS matter more than others.
  - 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 offenses or changing components of existing offenses.

# Current Grid Summary

## Public Safety:

- No present evidence of sentence length in reducing recidivism.
- No present evidence of criminal history score being predictive of likelihood of recidivism.
- Collateral consequences from incarceration may actually increase recidivism.
- Limited transparency and predictability for victims at sentencing (how is CHS calculated? What is the actual possible sentence?)
- Limited local and rehabilitative options for judges at sentencing which may be more effective at reducing recidivism.
- Evidence suggests that generalized offending patterns are more predictive of recidivism than specialized/repeat behaviors.

# Proposed Recommendation: New WA Felony Sentencing Guidelines Grid

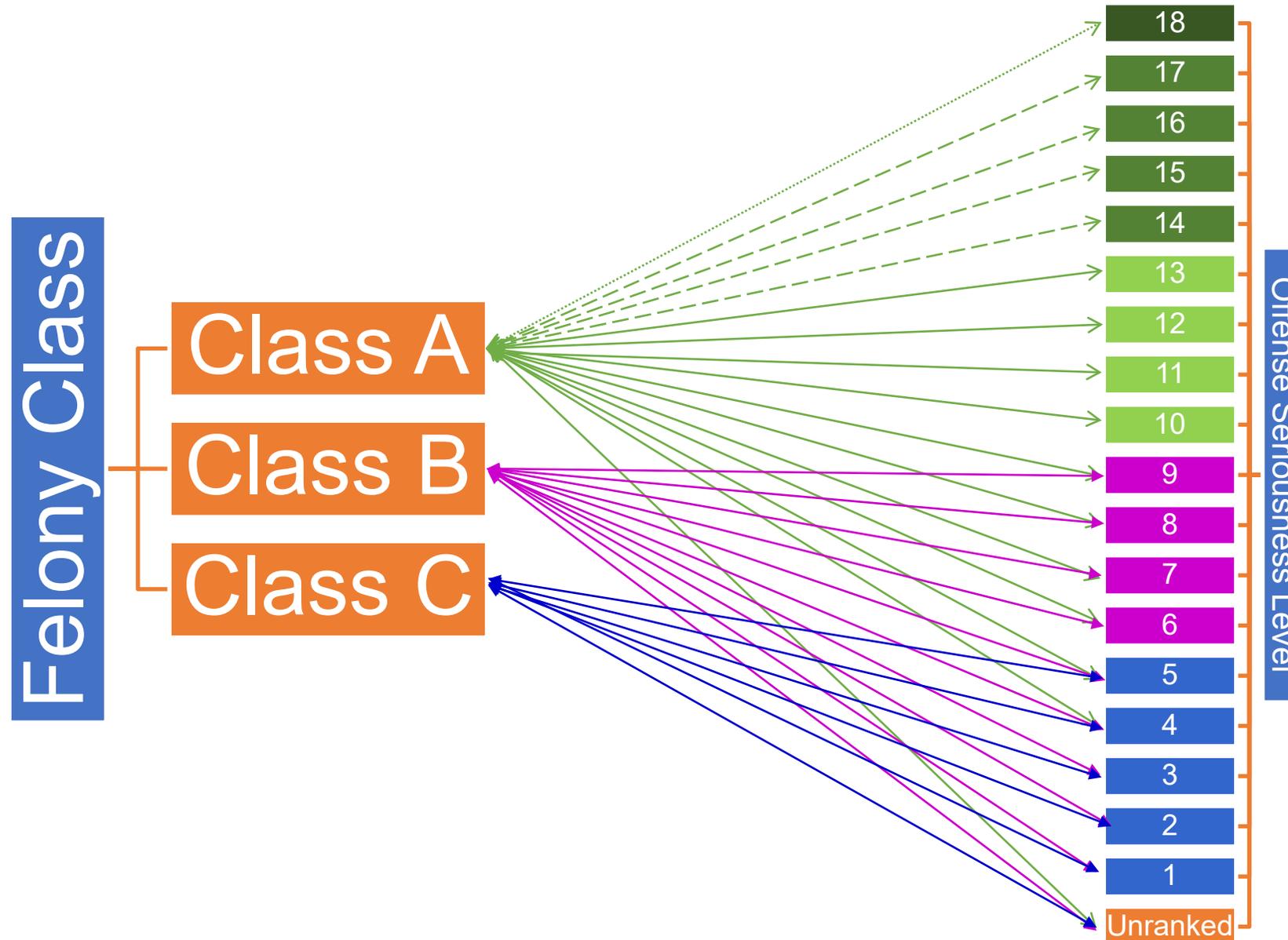
	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
<b>18</b>	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
<b>17</b>	240	320	252	336	264	352	277	370	291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

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
<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, term of 25 years to Life																						
<b>17</b>	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	49.0	10%	
<b>16</b>	114	151	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%	
<b>15</b>	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%	
<b>14</b>	87	117	93	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%	
<b>13</b>	59	99	75	108	71	111	86	128	99	138	108	146	115	163	130	178	146	195	155	200	22.0	10%	
<b>12</b>	52	87	57	96	63	81	66	108	81	111	86	128	108	146	115	163	146	195	155	200	19.0	10%	
<b>11</b>	45	76	50	84	55	70	55	96	70	96	70	111	96	130	105	146	130	178	146	195	17.0	10%	
<b>10</b>	39	65	43	71	47	60	47	84	60	96	70	111	96	130	105	146	130	178	146	195	14.0	10%	
<b>9</b>	19	33	22	37	28	39	28	55	39	55	43	60	47	70	55	84	70	96	84	111	12.0	10%	
<b>8</b>	17	28	19	33	24	33	24	43	33	43	33	47	39	55	47	60	47	70	60	84	10.0	10%	
<b>7</b>	14	24	17	28	19	28	19	37	28	37	28	43	39	55	47	60	47	70	60	84	9.0	10%	
<b>6</b>	12	20	14	23	16	23	16	33	23	33	23	43	39	55	47	60	47	70	60	84	7.0	10%	
<b>5</b>	3	12	4	14	5	14	5	23	14	23	14	23	19	28	19	28	19	33	28	43	6.0	10%	
<b>4</b>	2	9	3	11	4	11	4	19	11	19	11	23	19	28	19	28	19	33	28	43	4.0	10%	
<b>3</b>	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%	
<b>2</b>	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%	
<b>1</b>	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%	
<b>Unr</b>	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										
<b>18</b>	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																					
<b>17</b>	240	252	264	276	288	300	312	324	336	348	49.0	10%										
<b>16</b>	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
<b>15</b>	101	135	117	158	126	163	138	179	144	187	160	197	170	209	185	223	198	239	215	250	30.0	10%
<b>14</b>	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
<b>13</b>	75	100	81	108	87	116	96	125	104	134	113	143	122	152	131	161	140	170	150	180	22.0	10%
<b>12</b>	63	84	67	91	74	98	81	105	88	112	95	119	102	126	109	133	116	140	123	147	19.0	10%
<b>11</b>	51	68	54	72	58	77	63	82	68	87	73	92	78	97	83	102	88	107	93	112	17.0	10%
<b>10</b>	40	53	42	56	45	59	48	62	51	65	54	68	57	71	60	74	63	77	66	80	14.0	10%
<b>9</b>	30	40	31	41	32	42	33	43	34	44	35	45	36	46	37	47	38	48	39	49	12.0	10%
<b>8</b>	20	27	21	28	22	29	23	30	24	31	25	32	26	33	27	34	28	35	30	36	10.0	10%
<b>7</b>	15	20	15	20	15	20	15	20	15	20	15	20	15	20	15	20	15	20	15	20	9.0	10%
<b>6</b>	10	13	10	13	10	13	10	13	10	13	10	13	10	13	10	13	10	13	10	13	8.0	10%
<b>5</b>	7	9	7	9	7	9	7	9	7	9	7	9	7	9	7	9	7	9	7	9	7.0	10%
<b>4</b>	5	7	5	7	5	7	5	7	5	7	5	7	5	7	5	7	5	7	5	7	6.0	10%
<b>3</b>	4	5	4	5	4	5	4	5	4	5	4	5	4	5	4	5	4	5	4	5	5.0	10%
<b>2</b>	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	4.0	10%
<b>1</b>	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	3.0	10%
<b>Unr</b>	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										
<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, term of 25 years to Life																					
<b>17</b>	240	300	352	404	456	508	560	612	664	716	768	49.0	10%									
<b>16</b>	114	153	192	231	270	309	348	387	426	465	504	34.0	10%									
<b>15</b>	101	135	169	203	237	271	305	339	373	407	441	30.0	10%									
<b>14</b>	87	116	145	174	203	232	261	290	319	348	377	26.0	10%									
<b>13</b>	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
<b>12</b>	52	77	55	85	63	96	71	106	77	118	84	121	91	135	101	149	117	168	127	195	19.0	10%
<b>11</b>	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
<b>10</b>	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
<b>9</b>	33	55	36	60	40	66	44	72	48	78	52	84	56	90	60	100	66	100	67	120	12.0	10%
<b>8</b>	27	45	30	50	33	54	36	60	40	66	44	72	48	78	52	84	56	90	66	100	10.0	10%
<b>7</b>	21	35	23	38	25	42	28	46	31	50	33	54	36	60	40	66	44	72	48	78	9.0	10%
<b>6</b>	17	28	18	30	20	33	22	36	24	40	27	44	29	46	31	50	33	54	36	60	7.0	10%
<b>5</b>	13	21	14	23	15	25	17	28	19	31	21	34	23	37	25	41	27	44	30	50	6.0	10%
<b>4</b>	10	16	11	18	12	20	14	23	16	26	18	29	20	33	23	37	25	41	30	50	4.0	10%
<b>3</b>	8	12	8	14	10	16	11	18	13	21	15	24	17	28	20	33	23	37	25	41	3.0	10%
<b>2</b>	6	9	6	10	7	11	8	13	9	14	10	16	12	20	15	24	17	28	20	33	2.0	10%
<b>1</b>	4	6	4	7	5	8	6	9	6	10	7	11	8	13	10	16	12	20	15	24	1.0	10%
<b>Unr</b>																						

**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

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

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

	0																							
18	Life																							
17	140	155																						
16	114	129																						
15	101	116																						
14	87	102																						
13	59	66	65	72	79	86	93	100	107	114	121	128	135	142	149	156	163	170	177	184	191	198	205	212
12	52	57	57	62	67	72	77	82	87	92	97	102	107	112	117	122	127	132	137	142	147	152	157	162
11	45	48	48	51	54	57	60	63	66	69	72	75	78	81	84	87	90	93	96	99	102	105	108	111
10	39	41	43	45	47	49	51	53	55	57	59	61	63	65	67	69	71	73	75	77	79	81	83	85
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	120	120	120	120
8	15	27	18	31	22	36	26	43	30	51	34	57	40	66	40	69	50	84	60	105	100	100	100	100
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	90	90	90	90
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	70	70	70	70
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	60	60	60	60
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	40	40	40	40
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	30	30	30	30
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	20	20	20	20
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	10	10	10	10
Unr	0 - 365 days																							

# 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										
<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																					
<b>17</b>	240	320	252	336	264						496	49.0	10%									
<b>16</b>	114	153	126	168	138						340	34.0	10%									
<b>15</b>	101	135	111	148	122						300	30.0	10%									
<b>14</b>	87	117	96	128	106						260	26.0	10%									
<b>13</b>	59	99	65	108	71						220	22.0	10%									
<b>12</b>	52	87	57	96	63						195	19.0	10%									
<b>11</b>	45	76	50	84	55						170	17.0	10%									
<b>10</b>	39	65	43	71	47						145	14.0	10%									
<b>9</b>												12.0	10%									
<b>8</b>												10.0	10%									
<b>7</b>												9.0	10%									
<b>6</b>	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
<b>5</b>	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
<b>4</b>	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
<b>3</b>	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
<b>2</b>	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
<b>1</b>	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
<b>Unr</b>	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										
<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																															
<b>17</b>	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%
<b>16</b>	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%
<b>15</b>	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%
<b>14</b>	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%
<b>13</b>	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%
<b>12</b>	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%
<b>11</b>	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%
<b>10</b>	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%
<b>9</b>	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%
<b>8</b>	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%
<b>7</b>	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%
<b>6</b>	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%
<b>5</b>	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%
<b>4</b>	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%
<b>3</b>	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%
<b>2</b>	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%
<b>1</b>	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%
<b>Unr</b>	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										
<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																					
<b>17</b>	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	49.0	10%
<b>16</b>	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
<b>15</b>	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
<b>14</b>	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
<b>13</b>	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
<b>12</b>	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
<b>11</b>	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
<b>10</b>	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
<b>9</b>	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
<b>8</b>	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
<b>7</b>	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
<b>6</b>	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
<b>5</b>	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
<b>4</b>	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
<b>3</b>	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
<b>2</b>	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
<b>1</b>	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
<b>Unr</b>	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											
<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																						
<b>17</b>	0	0	2	3	4	6	7	9	11	15	15	20	10	13	0	0	-15	-20	-39	-52	49.0	10%	
<b>16</b>	-8	-67	-8	-66	-5	-59	-1	-50	3	-41	10	-29	8	-24	8	-18	-11	-29	-43	-57	34.0	10%	
<b>15 (malicious explosion 1)</b>	-139	-185	-139	-185	-138	-184	-136	-181	-133	-176	-128	-171	-133	-177	-141	-187	-153	-204	-186	-248	30.0	10%	
<b>15 (trafficking 1)</b>	-22	-85	-23	-86	-21	-81	-19	-74	-17	-67	-12	-58	-16	-56	-19	-53	-40	-68	-73	-97	30.0	10%	
<b>14</b>	-35	-47	-37	-49	-38	-50	-37	-49	-37	-48	-34	-45	-40	-53	-45	-60	-69	-91	-103	-137	26.0	10%	
<b>13</b>	-34	-24	-37	-27	-39	-27	-41	-30	-37	-28	-34	-24	-31	-21	-28	-18	-25	-34	-44	-98	22.0	10%	
<b>12</b>	-25	-14	-28	-17	-31	-19	-32	-21	-28	-18	-24	-14	-21	-11	-18	-8	-15	-24	-34	-85	19.0	10%	
<b>11</b>	-5	9	-7	9	-6	11	-6	11	0	0	0	0	0	0	0	0	0	0	0	-28	17.0	10%	
<b>10</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14.0	10%	
<b>9 (Malicious placement imitation device 1)</b>	-73	-90	-79	-98	-85	-103	-90	-107	-94	-111	-98	-115	-102	-119	-106	-123	-110	-127	-144	-198	12.0	10%	
<b>9 (Criminal mistreatment 1; malicious explosion 3)</b>	-31	-35	-34	-37	-36	-38	-37	-36	-35	-34	-33	-32	-31	-30	-29	-28	-27	-26	-25	-24	-78	12.0	10%
<b>9</b>	-11	-8	-13	-10	-15	-10	-16	-13	-10	-17	-14	-11	-18	-15	-12	-9	-6	-3	0	-51	12.0	10%	
<b>8</b>	-4	2	-6	-1	-8	-3	-10	-7	-4	-11	-8	-5	-12	-9	-6	-3	0	3	6	-39	10.0	10%	
<b>7</b>	0	5	-4	1	-6	-1	-8	-5	-2	-9	-6	-3	-10	-7	-4	-1	2	5	8	-26	9.0	10%	
<b>6</b>	0	7	-1	4	-5	0	-7	-4	-1	-8	-5	-2	-9	-6	-3	0	3	6	9	-27	7.0	10%	
<b>5</b>	-2	0	-8	0	-8	0	-9	-6	-3	-10	-7	-4	-11	-8	-5	-2	1	4	7	-36	6.0	10%	
<b>4</b>	0	1	-2	0	-8	0	-8	-5	-2	-9	-6	-3	-10	-7	-4	-1	2	5	8	-35	4.0	10%	
<b>3</b>	1	5	0	1	-1	-1	-5	-2	1	-6	-3	0	-7	-4	-1	2	5	8	11	-29	3.0	10%	
<b>2</b>	0	0	0	0	-1	-2	-1	2	-1	-6	-3	0	-7	-4	-1	2	5	8	11	-29	2.0	10%	
<b>1</b>	0	0	1	0	-1	0	0	0	-1	-1	-1	-3	-9	-4	-10	-6	-13	-7	-17	-11	1.0	10%	
<b>Unr</b>	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	
<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																						
<b>17</b>	0	0	2	3	4	6	7	9	11	15	15	20	10	13	0	0	-15	-20	-39	-52	49.0	10%	
<b>16</b>	-8	-67	-8	-66	-5	-59	-1	-50	3	-41	10	-29	8	-24	8	-18	-11	-29	-43	-57	34.0	10%	
<b>15 (malicious explosion 1)</b>	-139	-185	-139	-185	-138	-184	-136	-181	-133	-176	-128	-171	-133	-177	-141	-187	-153	-204	-186	-248	30.0	10%	
<b>15 (trafficking 1)</b>	-22	-85	-23	-86	-21	-81	-19	-74	-17	-67	-12	-58	-16	-56	-19	-53	-40	-68	-73	-97	30.0	10%	
<b>14</b>	-35	-47	-37	-49	-38	-50	-37	-49	-37	-48	-34	-45	-40	-53	-45	-60	-69	-91	-103	-137	26.0	10%	
<b>13</b>	-34	-24	-37	-27	-39	-27	-41	-28	-42	-26	-42	-25	-57	-41	-62	-43	-82	-65	-108	-98	22.0	10%	
<b>12</b>	-25	-14	-28	-17	-31	-19	-32	-19	-34	-19	-35	-17	-53	-39	-56	-40	-72	-57	-93	-85	19.0	10%	
<b>11</b>	-5	9	-7	9	-6	11	-6	13	-5	16	-3	21	-17	6	-19	5	-31	-7	-47	-28	17.0	10%	
<b>10</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14.0	10%	
<b>9 (Malicious placement imitation device 1)</b>	-73	-90	-79	-98	-85	-103	-90	-110	-94	-113	-98	-118	-116	-140	-125	-148	-148	-176	-168	-198	12.0	10%	
<b>9 (Criminal mistreatment 1; malicious explosion 3)</b>	-31	-35	-34	-37	-36	-38	-37	-39	-37	-38	-37	-36	-52	-54	-55	-56	-68	-70	-77	-78	12.0	10%	
<b>9</b>	-11	-8	-13	-10	-15	-10	-16	-11	-16	-10	-17	-9	-31	-26	-34	-28	-47	-43	-57	-51	12.0	10%	
<b>8</b>	-4	2	-6	-1	-8	-3	-10	-4	-11	-3	-11	-3	-27	-22	-31	-25	-34	-28	-45	-39	10.0	10%	
<b>7</b>	0	5	-4	1	-6	-1	-8	-3	-10	-5	-11	-4	-23	-18	-27	-23	-32	-26	-33	-26	9.0	10%	
<b>6</b>	0	7	-1	4	-5	0	-7	-3	-9	-5	-11	-7	-17	-13	-24	-20	-29	-26	-32	-27	7.0	10%	
<b>5</b>	-2	0	-8	0	-8	0	-9	1	-15	-4	-24	-13	-30	-18	-38	-25	-47	-30	-54	-36	6.0	10%	
<b>4</b>	0	1	-2	0	-8	0	-8	0	-9	1	-15	-4	-24	-13	-32	-22	-40	-27	-48	-35	4.0	10%	
<b>3</b>	1	5	0	1	-1	-1	-5	1	-7	0	-11	-3	-15	-6	-25	-15	-33	-23	-39	-29	3.0	10%	
<b>2</b>	0	0	0	0	-1	-2	-1	-3	-9	-4	-10	-6	-13	-7	-17	-11	-27	-22	-34	-29	2.0	10%	
<b>1</b>	0	0	1	0	-1	0	0	0	-1	-1	-1	-3	-9	-4	-10	-6	-13	-7	-17	-11	1.0	10%	
<b>Unr</b>	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.**

3:15- 3:30pm

# Preparing for Consensus Deliberations at the Next Meeting

## Full Participation and Cooperation

- Everyone participates, not just the vocal few
- Opposing viewpoints are allowed to co-exist in the room
- Work together to achieve collective—and respective—goals
- Appreciate experience and expertise while also welcoming new input
- No coercion, manipulation, or threats

## Shared Responsibility

- Everyone (including facilitator) takes responsibility for themselves and their participation.
- Everyone also helps support the group – draw each other out with supportive questions.
  - Everyone takes responsibility for both the content and the process of making decisions together.

# Values of Consensus Decision-Making

## Mutual Understanding

- Share all relevant information
- Listen to feelings as well as ideas
- Be willing to reconsider your own thinking, in the light of new information
- Allow for independent validation of assumptions
- Be open to the possibility of transformation
- Focus on common purpose
- Try to understand other's reasoning – even when that reasoning leads to a conclusion you do not agree with.

## Inclusive Solutions

- Strive to turn either/or problems into both/and solutions
  - Work to foster a win/win attitude
- Move away from either/or thinking, toward creative possibilities
- Inclusive solutions are wise solutions. The wisdom emerges from integrating everyone's perspectives and needs. An inclusive solution often involves the discovery of an entirely new option.

# Task Force Consensus Decision-Making

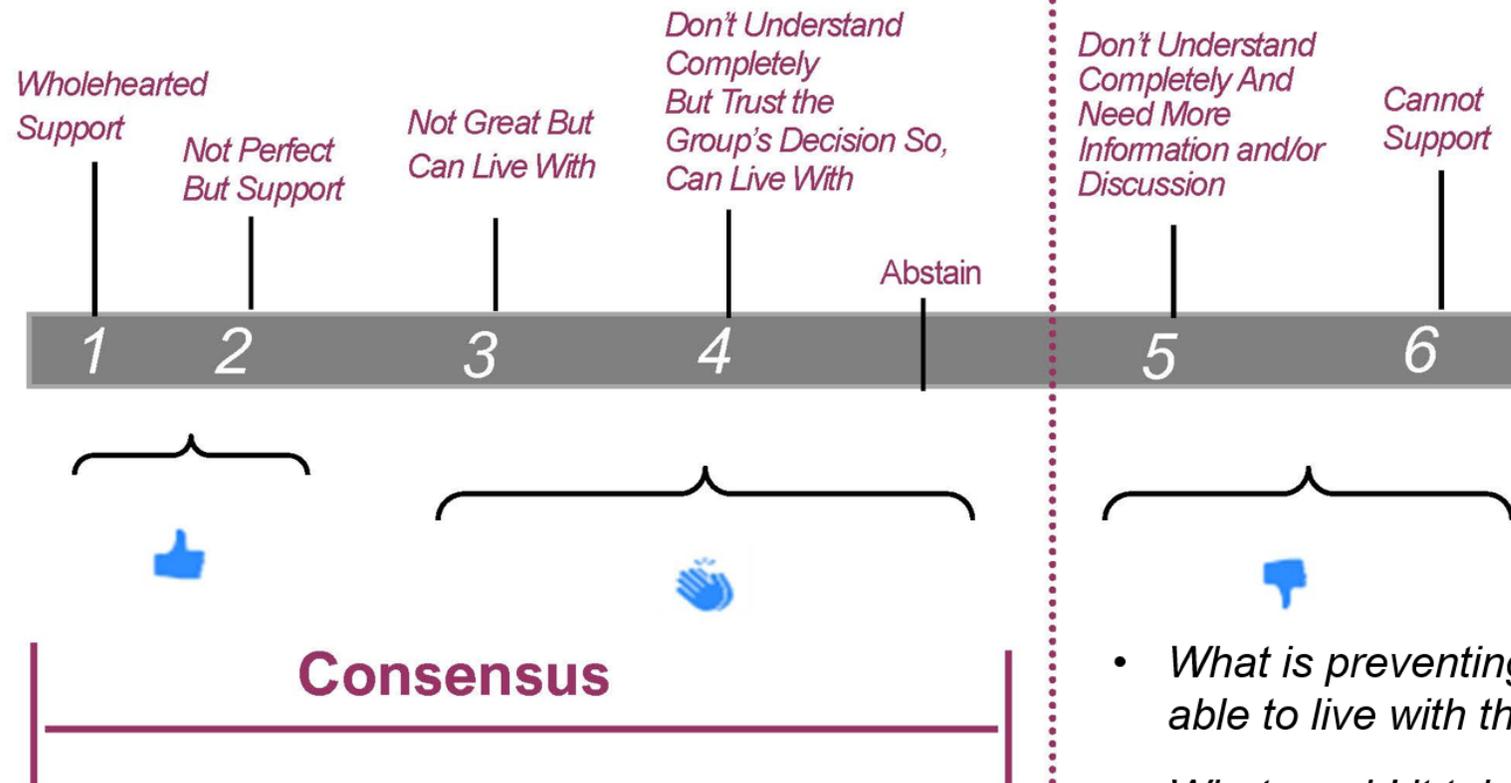
## Consensus Defined

The Task Force operates under the following definition of consensus:

*Consensus means that each Task Force member can say: (1) I was a respected member of the group that considered the decision; (2) my ideas (opinions, knowledge, concerns, beliefs, hopes) were listened to; (3) I listened to the ideas (opinions, knowledge, concerns, beliefs, hopes) of others; and (4) I can support the decision of the group, even though I might have made a different decision had I acted alone.*

This consensus can be conveyed via a thumbs up (*I support this option*), thumbs sideways (*I can live with this option for the good of the group and the process*) or thumbs down (*I cannot live with this option*). If a member is thumbs down, that member is expected to provide a proposal that legitimately attempts to achieve the interest of the constituency they represent and the interests of the other members. All members will seek solutions that allow those thumbs to move to up or sideways.

## Gradients of Agreement



*Consensus is not voting. Voting is a power-based approach that results in a yes or a no – majority are winners and minority are losers.*

- *What is preventing you from being able to live with the recommendation?*
- *What would it take for you to change your position?*

# Criminal Sentencing Task Force Consensus Process

## Presentation and Discussion

**Working Groups Draft Potential Recommendations**

- Meet between meetings to draft potential recommendations that meet all Task Force members needs.

**Full Task Force Dialogue, Input, and Temp Checks**

- Working Groups present potential recommendations (1st, 2nd, 3rd offers) to full Task Force over multiple meetings.
- Task Force discusses and provides input.
- Consensus Temperature checks.

**Working Groups Refine**

- Working Groups take input from full Task Force and refine potential recommendations to meet needs of all members.

## Deliberation

**Proposed Recommendation**  
Facilitation Team will read the proposed recommendation.

**1st Test for Consensus**  
Do all members support or can live with?

No

Yes

**Discussion and Modify**  
Address concerns  
Modify to better serve the whole group

**CONSENSUS**

**2nd Test for Consensus**  
Do all members support or can live with?

No

Yes

**Capture Pros and Cons in Final Report**

**Add to 2021 Workplan**

**Unanimous Support**

Full agreement with all aspects of the decision/recommendation – all members present were thumbs up.

**Strong Support**

Support for all or most aspects of the decision/recommendation and no fundamental disagreements with any aspect of the proposal – no more than two members present are thumbs sideways.

**General Support**

Support for most aspects of the decision/recommendation and no fundamental disagreements, however there may be unanswered questions, aspects in need of information not available, etc. There is a mix of thumbs up and thumbs sideways.

**Weak Support**

Significant disagreement with one or more aspects of the decision/recommendation, however, all members present can live with the proposal (i.e. overall, the decision/recommendation is better than leaving things as they are now or doing nothing) – the majority of members present are thumbs sideways.

**No Consensus**

Significant disagreement with the decision/ recommendation. One or more members cannot support or live with the proposal. Member(s) have suggested alternatives that legitimately attempts to achieve the interest of the constituency they are representing, and the interests of the other members, however, after dialogue and deliberation, there is still no consensus – One or more thumbs down.

**Abstention**

At times, a decision/recommendation may be infeasible for a member to weigh in on.

The goal is for all members to be in unanimous, strong, or general support.

In the situation of weak support, members may submit in writing to the facilitation team and the co-chairs for inclusion in the 2021 report, the reasoning behind their constituency being able to “live with” the decision and alternative options or language that would have addressed their constituencies concerns.

In situations when there is no consensus, members not in support will submit in writing to the facilitation team and the co-chairs the reasoning behind their constituency being unable to “live with” the decision and alternative options or language that would have addressed their constituencies’ concerns.

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3:30 –  
3:50pm

# Public Comment

# Recap and Action Items

## Closing Reflections

3:50 - 4:00pm



4:00pm

**ADJOURN**

