

Washington State Criminal Sentencing Task Force Meeting

September 1, 2022

10:00am-4:00pm

Hybrid Meeting: In-Person and Via ZOOM

Agenda

Agenda

- Task Force Introductions and Updates
- Consensus Deliberations on Proposed Recommendation: The New Felony Sentencing Guidelines Grid.

Agenda

9:30am
**Coffee/Informal
Conversation**

10:00am
**Welcome and Agenda
Review**

10:10am
Introductions & Updates

10:30am
**Review Consensus
Process**

10:45am
**Review of Proposed
Recommendation and
Any Remaining
Questions**

11:15am
Test for Consensus

- If consensus, then have lunch and adjourn.
- If no consensus, begin deliberations to resolve differences

12:15pm
LUNCH

12:45pm
Cont. Working Toward Consensus

3:30pm
Test for Consensus

3:40pm
Public Comment

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
 - Workplan Proposal
- Updates from Facilitation Team

Tentative 2022 Work Plan

- **August 31st:** Proposed Recommendations.
- **September 1st:** Consensus Deliberations on the Proposed Recommendation for the New Sentencing Guidelines Grid
- **October:** Proposed Recommendations and Consensus Deliberations.
- **November:** Consensus Deliberations
- **December:** Final report – last review and opportunity to address any unresolved issues

10:30-
10:45am

Review Consensus Process

Task Force's Operating Procedures

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.

Task Force's Operating Procedures

Consensus Decision-Making

- Consensus can be achieved at any full Task Force meeting where at least 12 of 20 members (or their designated alternates) are present.
- The Task Force will have the option to ask the Facilitation Team to communicate afterward with members not present for a decision, to explain key points of Task Force deliberations and confirm whether those members can go along with the decision.
- If not, the co-chairs may decide whether the full Task Force should reconsider the decision at a subsequent meeting.

Task Force's Operating Procedures

The Task Force operates under the following definition of consensus:

Consensus means that each Task Force member can say:

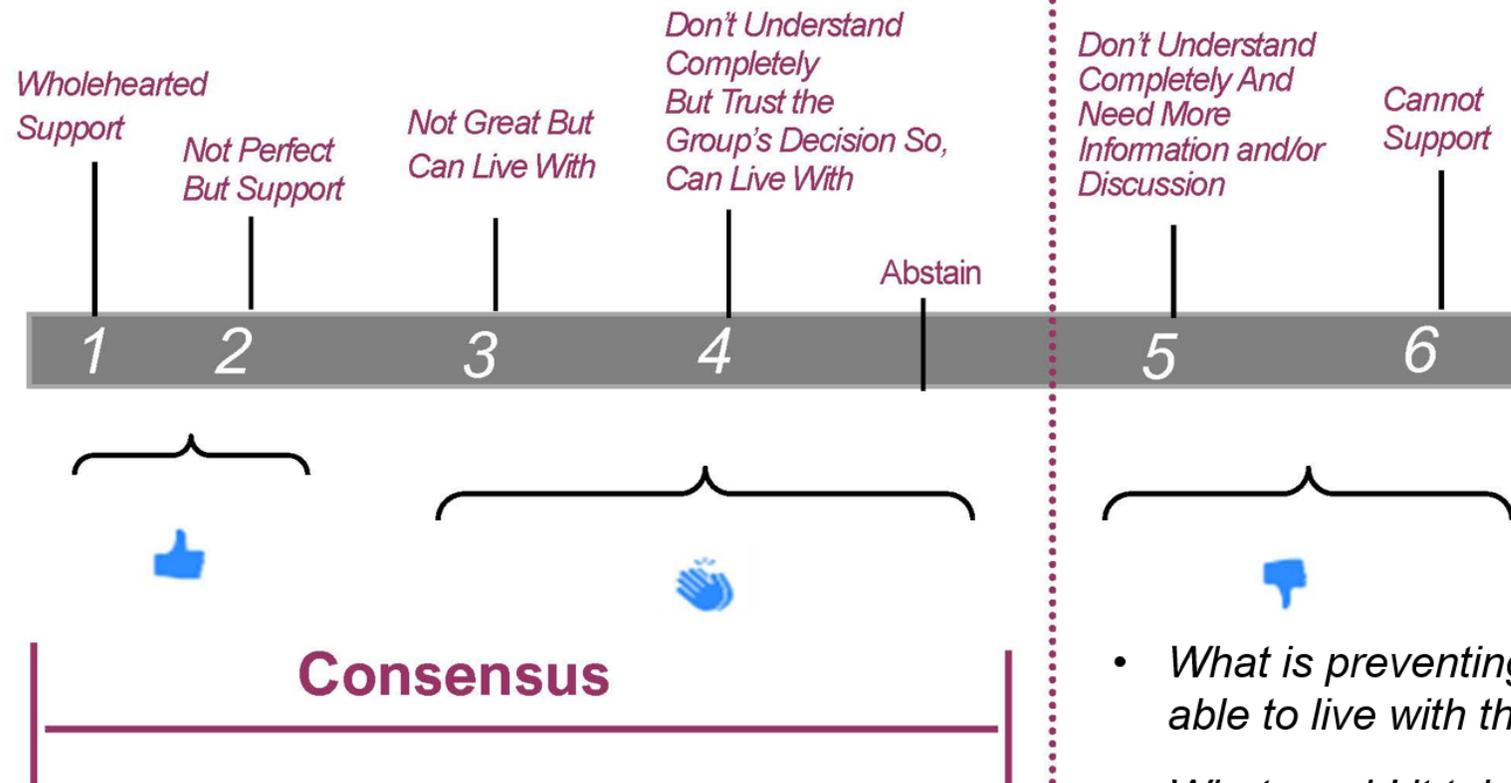
- (1) I was a respected member of the group that considered the decision;
- (2) my ideas (opinions, knowledge, concerns, beliefs, hopes) were listened to;
- (3) I listened to the ideas (opinions, knowledge, concerns, beliefs, hopes) of others; and
- (4) I can support the decision of the group, even though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

Task Force's Operating Procedures

Consensus can be conveyed via:

- A thumbs up (I fully support this option),
- A thumbs sideways (I can live with this option for the good of the group and the process) or
- A thumbs down (I cannot live with this option).

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?*

Task Force's Operating Procedures

If anyone 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 task force members.

All members will seek solutions that allow those thumbs to move up or sideways.

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.

Page 6 of CSTF Operating Procedures: Updated March 2021

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

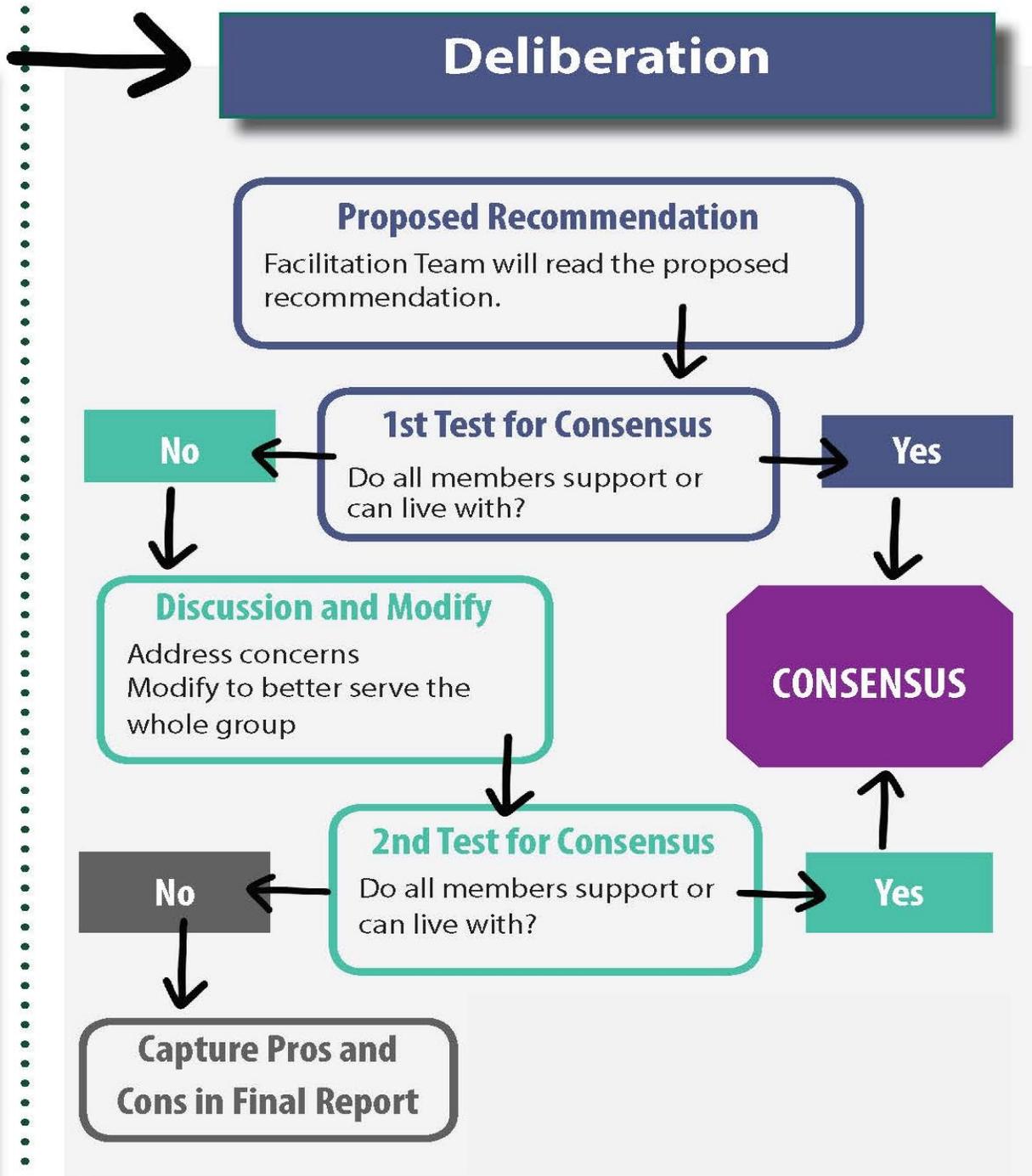
CONSENSUS

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

No

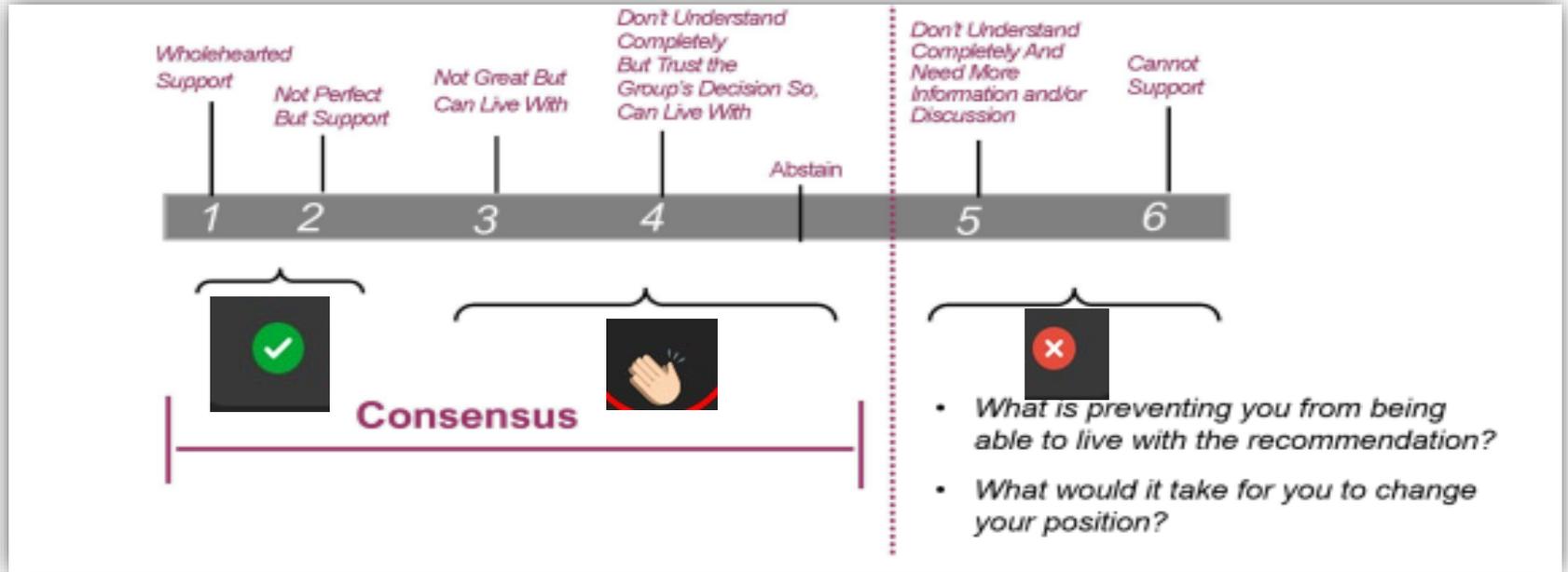
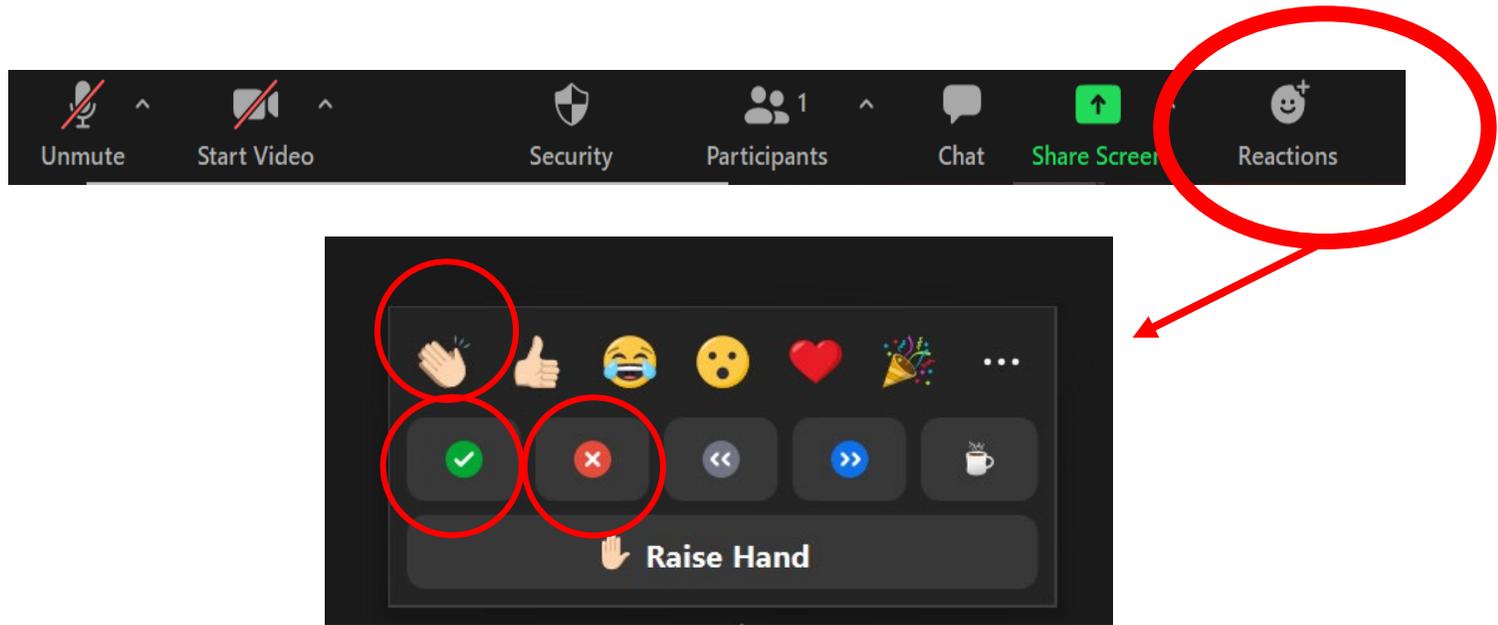
Yes

Capture Pros and Cons in Final Report



For Virtual Members

Consensus Icons



10:45 – 11:15

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

Proposed Recommendation: New WA Felony Sentencing Guidelines Grid

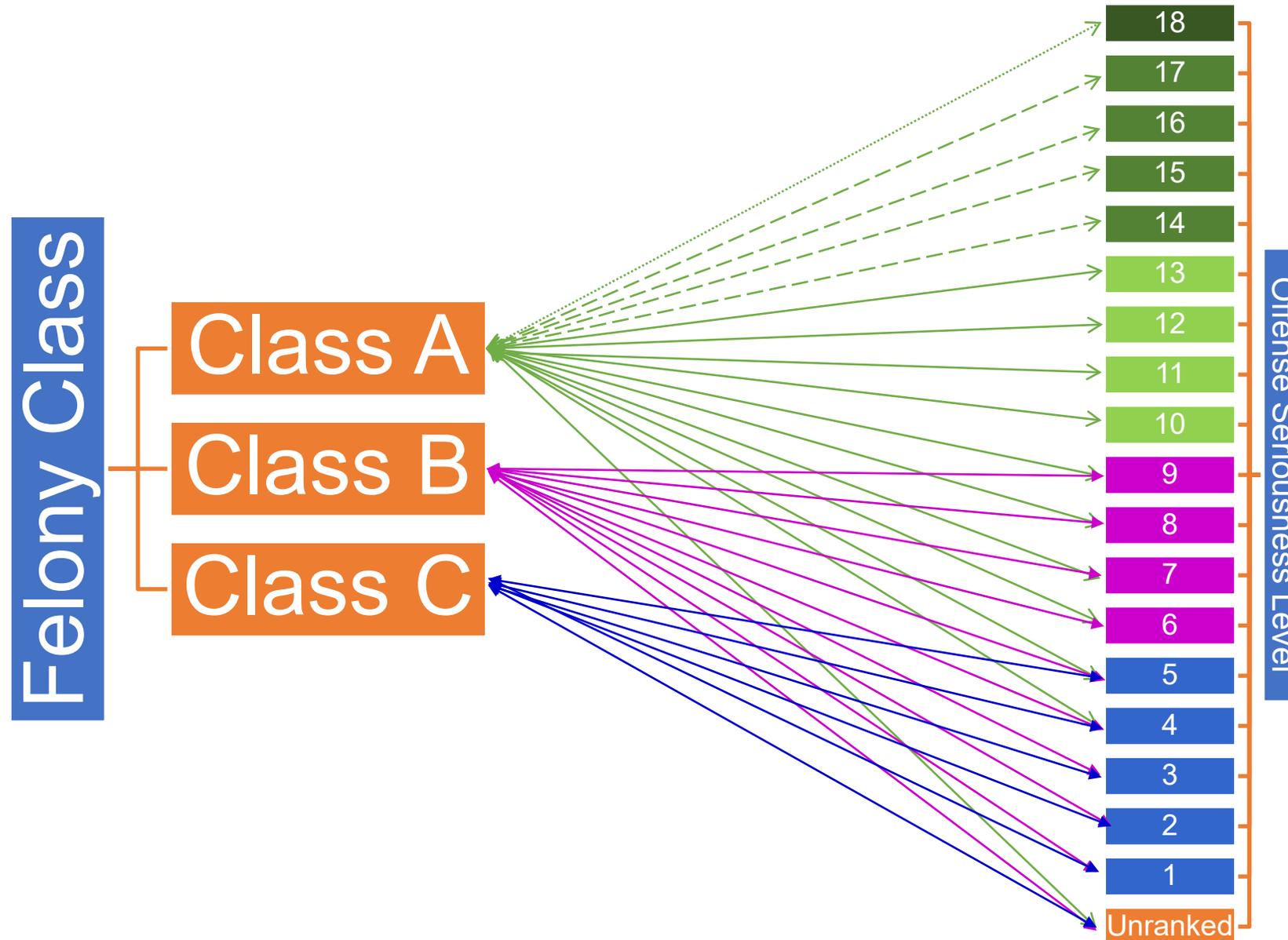
	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent or Repeat DV										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	320	252	336	264	352	277	370	291	388	306	408	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
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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	93	141	104	155	118	177	130	198	148	215	160	220	22.0	10%	
12	52	87	57	96	63	99	69	108	75	128	93	137	104	155	118	177	130	215	160	220	19.0	10%	
11	45	76	50	85	55	99	69	108	75	128	93	137	104	155	118	177	130	215	160	220	17.0	10%	
10	39	65	43	71	47	99	69	108	75	128	93	137	104	155	118	177	130	215	160	220	14.0	10%	
9	19	33	22	37	26	65	43	71	47	99	69	108	75	128	93	137	104	155	118	177	12.0	10%	
8	17	28	19	33	23	59	39	47	33	65	43	71	47	99	69	108	75	128	93	137	10.0	10%	
7	14	24	17	28	19	52	39	47	33	59	39	47	33	65	43	71	47	99	69	108	9.0	10%	
6	12	20	14	23	16	45	39	47	33	52	39	47	33	59	39	47	33	65	43	71	7.0	10%	
5	3	12	4	14	5	39	26	33	23	45	39	47	33	52	39	47	33	59	39	47	6.0	10%	
4	2	9	3	11	4	39	26	33	23	45	39	47	33	52	39	47	33	59	39	47	4.0	10%	
3	2	7	2	9	3	39	26	33	23	45	39	47	33	52	39	47	33	59	39	47	3.0	10%	
2	0	3	1	6	2	39	26	33	23	45	39	47	33	52	39	47	33	59	39	47	2.0	10%	
1	0	2	0	3	1	39	26	33	23	45	39	47	33	52	39	47	33	59	39	47	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 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	193	253	213	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	106	86	111	91	116	96	121	101	126	106	131	111	136	116	141	121	146	22.0	10%
12	63	84	67	89	72	95	78	101	84	107	90	113	96	119	102	125	108	131	114	137	19.0	10%
11	51	68	54	72	58	77	64	83	70	89	76	95	82	101	88	107	94	113	100	119	17.0	10%
10	40	53	41	54	44	57	46	59	48	61	50	63	52	65	54	67	56	69	58	71	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	168	202	235	268	302	335	368	402	435	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	59	37	65	43	74	50	84	55	93	61	101	69	111	74	121	80	130	87	120	12.0	10%
8	27	51	31	56	37	66	45	78	51	87	58	99	66	105	72	115	72	118	75	105	10.0	10%
7	24	45	27	50	33	59	40	72	47	81	54	90	60	102	68	110	70	112	75	90	9.0	10%
6	21	42	24	45	29	54	37	66	43	75	50	87	57	99	63	105	75	110	75	85	7.0	10%
5	18	36	21	40	25	48	32	57	39	69	45	81	51	93	63	105	75	110	80	75	6.0	10%
4	15	30	18	33	21	42	27	48	33	57	39	69	45	81	51	93	63	105	80	75	4.0	10%
3	12	24	15	27	17	36	23	42	27	51	33	61	40	75	51	93	63	105	80	75	3.0	10%
2	9	18	11	21	13	27	17	36	23	42	27	51	33	61	40	75	51	93	80	75	2.0	10%
1	6	12	7	14	9	18	11	21	13	27	17	36	23	42	27	51	33	61	80	75	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

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	219
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	167
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	114
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	87
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	120
8	15	27	18	31	22	35	26	43	30	49	34	57	40	66	46	76	55	87	60	105	100	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	90
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	75	75	75	75	75
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	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	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	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	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	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										
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	<div style="border: 2px solid red; padding: 10px;"> <p>New range values expands the SW Corner (GREEN)</p> <p>New range values create “straddle cells” where standard sentences may be a local sentence (<12.05) or a state sentence (>12.05) (BLUE)</p> <p>Largely applies to Class C felonies and low level Class B felonies.</p> </div>					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																					

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	-25	-32	-23	-30	-21	-28	-19	-26	-35	-98	22.0	10%
12	-25	-14	-28	-17	-31	-19	-32	-21	-28	-19	-26	-17	-24	-15	-22	-13	-20	-11	-18	-27	-85	19.0	10%
11	-5	9	-7	9	-6	11	-6	13	-4	11	-2	14	-1	12	-3	10	-2	11	-4	12	-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	0	14.0	10%
9 (Malicious placement imitation device 1)	-73	-90	-79	-98	-85	-103	-90	-107	-94	-112	-99	-117	-104	-122	-109	-127	-114	-132	-119	-137	-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	-14	-11	-15	-12	-16	-13	-17	-14	-18	-15	-19	-51	12.0	10%
8	-4	2	-6	-1	-8	-3	-10	-7	-4	-9	-6	-11	-8	-12	-9	-13	-10	-14	-11	-15	-39	10.0	10%
7	0	5	-4	1	-6	-1	-8	-5	-2	-7	-4	-9	-6	-11	-8	-13	-10	-14	-11	-15	-26	9.0	10%
6	0	7	-1	4	-5	0	-7	-4	1	-6	-3	-8	-5	-10	-7	-12	-9	-13	-10	-14	-27	7.0	10%
5	-2	0	-8	0	-8	0	-9	-6	-4	-9	-6	-10	-7	-11	-8	-12	-9	-13	-10	-14	-36	6.0	10%
4	0	1	-2	0	-8	0	-8	-5	-3	-9	-6	-10	-7	-11	-8	-12	-9	-13	-10	-14	-35	4.0	10%
3	1	5	0	1	-1	-1	-5	-2	1	-6	-3	-8	-5	-9	-6	-10	-7	-11	-8	-12	-29	3.0	10%
2	0	0	0	0	-1	-2	-1	0	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-29	2.0	10%
1	0	0	1	0	-1	0	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	-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	-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:

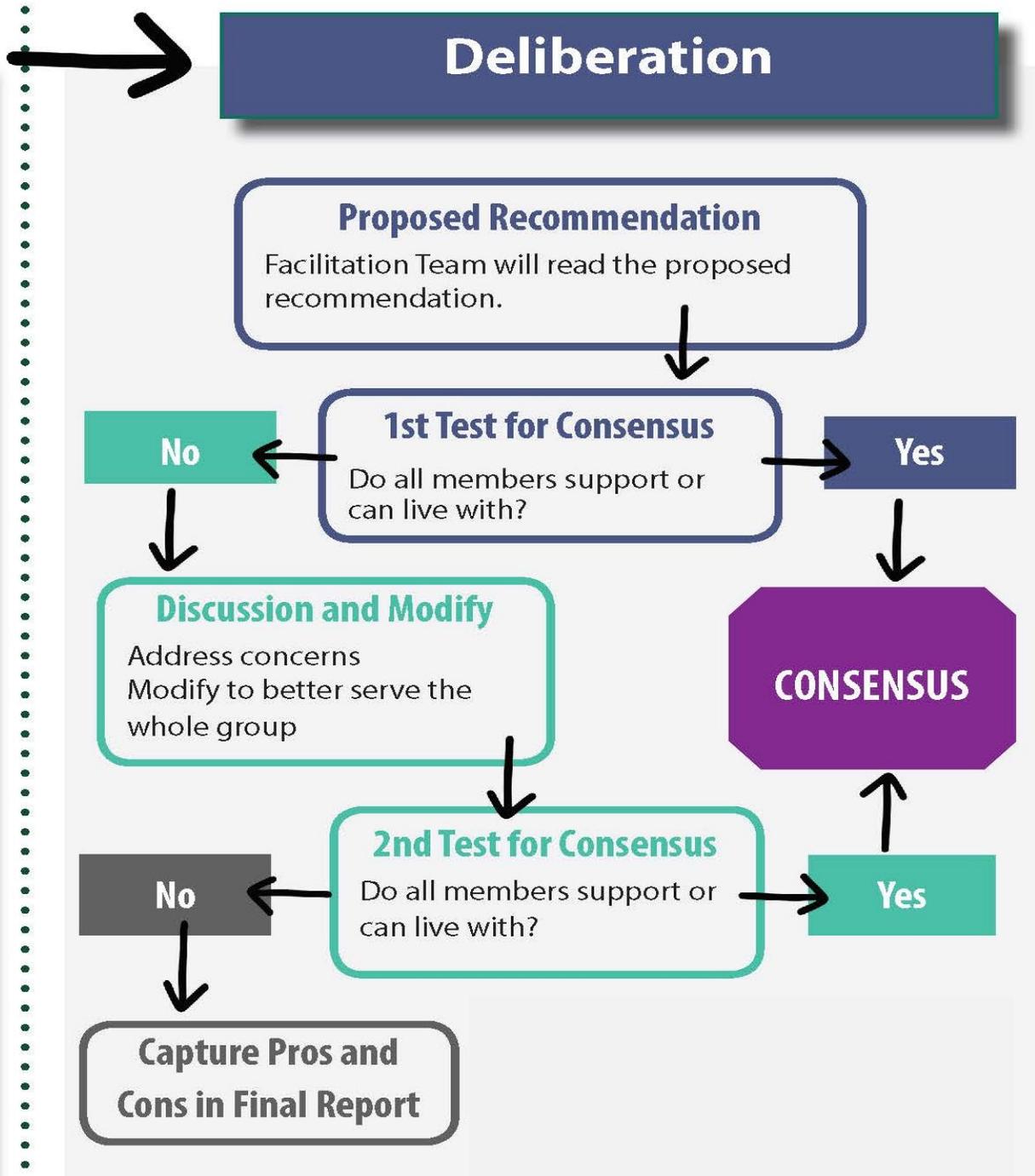
- *No present evidence of sentence length in reducing recidivism*
 - **Formulas widen the range without having huge reductions in the maximum**
- *No present evidence of criminal history score being predictive of likelihood of recidivism*
 - **Change in calculation of CHS may actually increase predictiveness 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.**

11:15am

TEST FOR CONSENSUS



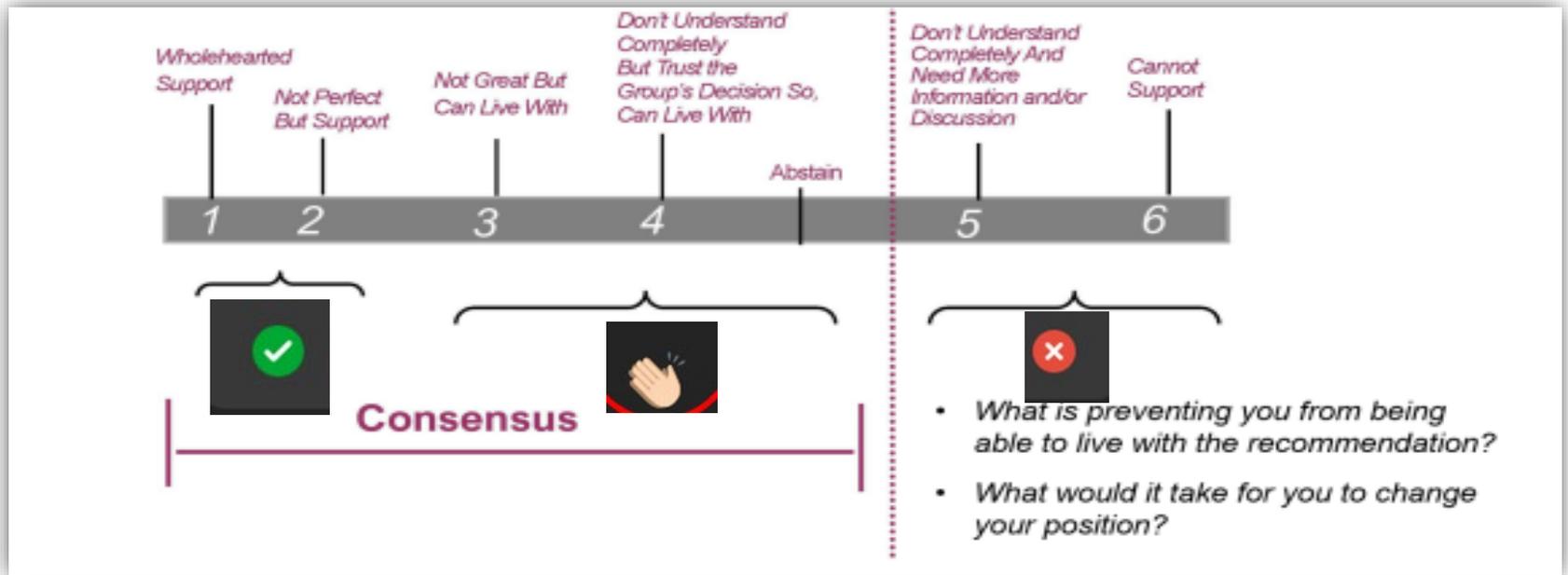
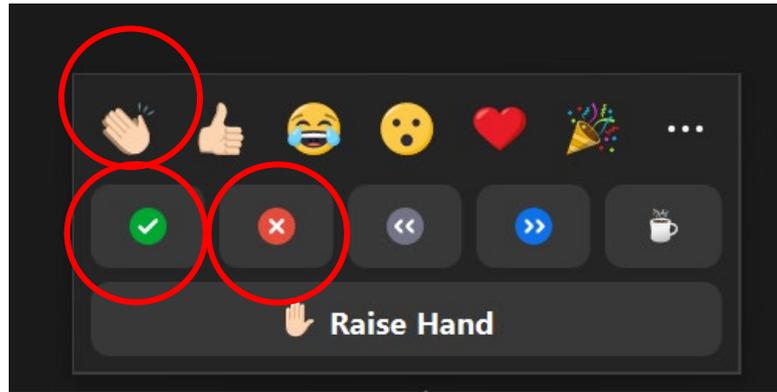
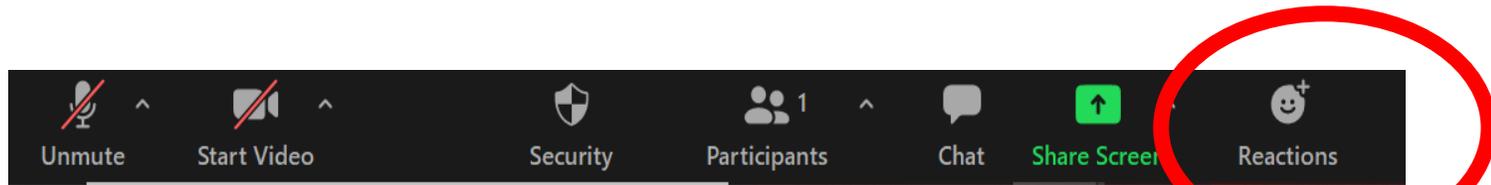
Task Force's Operating Procedures

Consensus can be conveyed via:

- A thumbs up (I fully support this option),
- A thumbs sideways (I can live with this option for the good of the group and the process) or
- A thumbs down (I cannot live with this option).

For Virtual Members

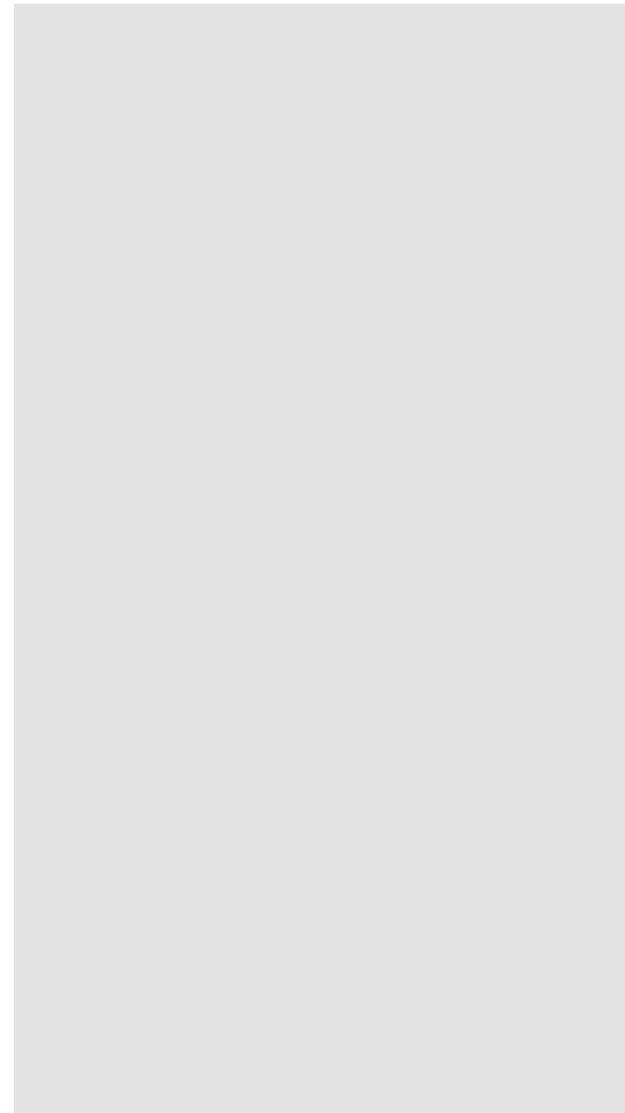
Consensus Icons



Task Force's Operating Procedures

If anyone 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 task force members.

All members will seek solutions that allow those thumbs to move up or sideways.



Members with Thumbs Down

Write down specifically/in detail:

1. What cannot live with
2. Why cannot live with it
3. Describe proposed change could live – and how it attempts to meet the needs of the group
4. What value does this/these proposed change(s) bring to meeting the 3 policy goals of the Task Force

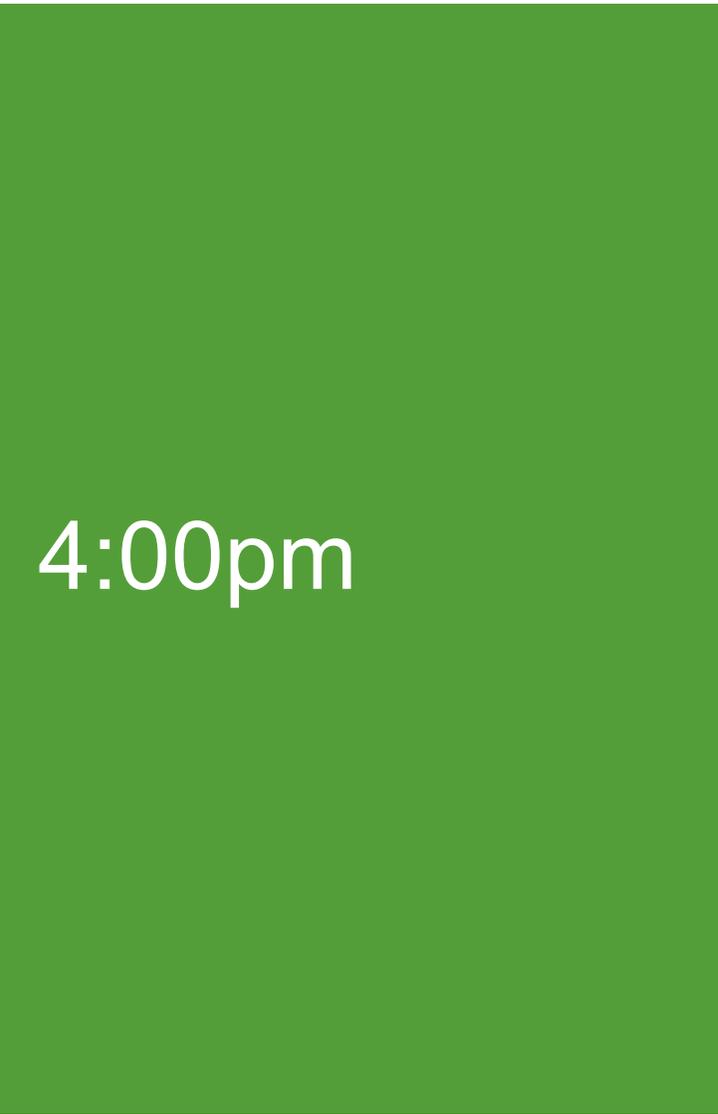
- How does this proposal address alignment of offense classifications?
- How does this proposal address portions of the grid where there are invalid sentence ranges for some of the offenses in the OSLs?
- How does this proposal address complexity of multipliers in calculation of CHS?
- How does this proposal address accountability for repetitive offending behavior?
- How does this proposal address consistency of sentence ranges – does it provide an objective answer to the question “why are the ranges the way they are?”
- How does this proposal address where there are narrow/inconsistent ranges, limiting judicial discretion?
- How does this proposal address limited transparency and predictability in determining sentences?

12:15 –
12:45pm

LUNCH

3:40 –
4:00pm

Public Comment



4:00pm

ADJOURN

