

Criminal Sentencing Task Force
List of Proposed Recommendations
10.26.22
For Consensus Deliberations at 11.3.22 CSTF Meeting

CISRS PROGRAM PROPOSED RECOMMENDATION

Proposed Recommendation: Create a Community Intermediate Sanctions and Reintegrative Services (CISRS) Program. Establish a workgroup tasked with determining the legislative standards and implementation plan for the CSIRS program, using the information provided in the recommendation as a guideline for the general program framework.

SENTENCING SYSTEM PROPOSED RECOMMENDATIONS

A. FOUNDATIONAL

1. **Proposed Recommendation:** The Legislature must allocate sufficient funds to implement rehabilitative programming for individuals incarcerated in Washington state, i.e., to support recruitment and training for mental health professionals, substance use disorder counselors, and the evidence-based programs to provide treatment and services along with education and job training for incarcerated individuals. These programs and services must be immediately available after DOC conducts an individual's intake assessment. Improving the effectiveness of the system and promoting public safety depend on this, as well as allocation of funds to support the transition to reentry through housing, transportation, removing barriers to employment, providing community supports, and other steps such as those outlined in the Task Force's 2020 Report. Require DOC to publish annual statistics on the number of individuals participating in programs by program and facility.
2. **Proposed Recommendation:** Since the current supervision model based on surveillance is insufficient, changes to the grid are based on a broader paradigm shift focused on providing the appropriate treatment, resources, and mentoring for individuals placed in state custody. To sufficiently achieve those goals, changes to the grid must include concurrent changes to the DOC community custody approach to fully adopt the i-COACH model or to adopt a comparable model of community reentry practices.
3. **Proposed Recommendation:** Require the SGC to review the state of evidence about the efficacy of reforms and publish a report every five years including recommendations for additional reforms. Research should include the impact of the reforms on:
 - Public safety (including recidivism, technical violations, violations of protection orders)
 - Racial and gendered disproportionality (for both defendants and victims)
 - The rate and use of incarceration and community alternatives

- Reentry outcomes including employment, housing, participation in and completion of treatment, etc.
- Complexity and errors in sentencing

B. SENTENCING DISCRETION

4. **Proposed Recommendation:** Require that any aggravated departure has reasoning articulated in the Judgement and Sentence, including any additional information, particular characteristic, or other circumstance justifying aggravating departure.
5. **Proposed Recommendation:** Eliminate mandatory consecutive sentencing. Leave default consecutive but allow judges discretion to issue concurrent sentences without invoking an exceptional sentence.
6. **Proposed Recommendation:** Replace three-strikes mandatory sentence with determinate plus sentencing.
7. **Proposed Recommendation:** Change the persistent offender laws to require notice to defendants that a conviction for the charged offense would lead to a sentence of life without parole under the persistent offender laws prior to entering a guilty plea or going to trial.

C. LEGAL PROCEDURES AND OTHER SENTENCING LAWS

8. **Proposed Recommendation:** For aggravated murder 1 change the language from: “Life sentence without parole/death penalty for individuals at or over the age of eighteen. For individuals under the age of eighteen, a term of twenty-five years to life.” To “Life sentence without parole/death penalty for individuals at or over the age of twenty-one. For individuals under the age of twenty-one, a term of twenty-five years to life.” In addition, strike reference to the death penalty as it is no longer a valid sentence in Washington State.

D. CRIMINAL HISTORY SCORE

9. **Proposed Recommendation:** Maintain special misdemeanor scoring for prior Misdemeanor DUI offenses when the current offenses is a serious felony traffic offense involving DUI (e.g., Vehicular homicide-DUI, Vehicular Assault-DUI, Felony DUI, Felony physical control, etc). Prior misdemeanor DUI offenses no longer score for felony offenses not involving DUI.
10. **Proposed Recommendation:** Maintain the special misdemeanor DUI scoring exceptions for homicide or assault by watercraft offenses and make homicide or assault by watercraft offenses the same OSL as the corresponding felony traffic offense (by either increasing watercraft offenses to higher OSLs or reducing vehicular offenses to a lower OSL) with the goal of creating parity between vehicular and watercraft offenses (Homicide by watercraft and vehicular homicide. Assault by watercraft and vehicular assault).

11. **Proposed Recommendation:** Maintain the special misdemeanor scoring exception for domestic violence. As described in the proposed recommendation of the new felony sentencing guidelines grid, offense-specific exceptions to standard scoring rules for adult felony offenses are eliminated and a new column is added to the grid for adjustments to the standard range for qualifying individuals. The scoring exceptions for adult felony offenses where domestic violence was pleaded/proven will score as 1 point per standard scoring rules, and are eligible for the expanded sentence range under the repeat violent/serious violent and repeat domestic violence column.
12. **Proposed Recommendation:** Reduce the OSL for vehicle prowl – 2nd degree (third or subsequent) to Offense Serious Level (OSL) 2 and raise the OSL for vehicle prowl – 1st degree to OSL 2.
13. **Proposed Recommendation:** Eliminate special misdemeanor scoring for prior misdemeanor vehicle prowl for theft of a motor vehicle, possession of a stolen vehicle, or theft of a motor vehicle without permission 1 or 2.
14. **Proposed Recommendation:** Include language in the SRA that would define the scope of offenses that can be scored in the calculation of a CHS as limited to prior felony convictions other than DV, DUI, and vehicular prowl (conditional on vehicular prowl and DUI recommendations passing).
15. **Proposed Recommendation:** Make the appropriate changes to the washout period law so that:
 - Washout periods do not reset upon confinement for a community custody violation.
 - Washout periods do not reset upon conviction (or subsequent confinement) for a simple misdemeanor offense unless it is the third conviction for a simple misdemeanor offense.
16. **Proposed Recommendation: Washouts for Class A Felonies:** Violent Class A felonies washout after 15 years. Serious violent Class A felonies would not washout.
17. **Proposed Recommendation: Washouts for Class B Felonies:** All class B felonies washout after 7 years.
18. **Proposed Recommendation: Washouts for Class C Felonies:** Class C felonies washout after 3 years.

E. CONTINUING WORK

19. **Proposed Recommendation:** The Legislature should conduct a review to assess the objectives of the persistent offender laws and evaluate what offenses should be classified as a most serious offense.

20. **Proposed Recommendation:** Direct the Sentencing Guidelines Commission to reviews offenses that have not been sentenced in the last 5-10-20 years for potential elimination from the criminal code.
21. **Proposed Recommendation:** Request and Fund the Washington State Institute for Public Policy to update its adult corrections inventory in order to update assessments of evidence-based programs and expand the inventory to include new programs that were not previously available when the inventory was conducted.

F. POST SENTENCING REFORM

22. **Proposed Recommendation:** For sentences including a term of total consecutive confinement longer than 20 years, individuals may petition for a second chance review at 20 years of incarceration (total confinement) with the possibility of release. Require that the review process explicitly include the opportunity for victim input.

G. SENTENCING ALTERNATIVES

23. **Proposed Recommendation:** Include and visually depict sentencing alternatives on the adult felony sentencing guidelines grid.
24. **Proposed Recommendation:** Eliminate the cap on the number of DOSA sentences that an individual can receive in a 10-year period.
25. **Proposed Recommendation:** Eliminate eligibility exclusions related to prior convictions for a violent offense (not serious violent offenses) from Sentencing Alternatives (except for SSOSA, which is currently being addressed by the SOPB). This would eliminate eligibility exclusions related to prior convictions for a violent offense from pDOSA and rDOSA.
26. **Proposed Recommendation:** Add eligibility criteria excluding individuals with prior felony offenses where an individual was armed with a firearm or deadly weapon, therefore aligning DOSA eligibility with FOSA.
27. **Proposed Recommendation:** Eliminate eligibility exclusion based on current offense/s – modeled after Mental Health Sentencing alternatives (does exclude eligibility if current offense is serious violent or sex offense).