

Washington State Criminal Sentencing Task Force
Proposed Recommendation: New Adult Felony Sentencing Guidelines Grid
DRAFT as of 9.2.22

Proposed Recommendation: New Adult Felony Sentencing Guidelines Grid

BACKGROUND: Underlying Motivations for Revising Washington's Current Adult Felony Sentencing Guidelines Grid

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

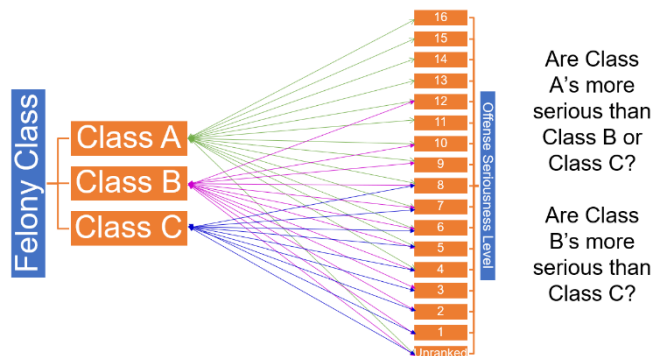
Washington State's Current Standard Felony Sentencing Guideline Grid

CRIMINAL HISTORY SCORE										
	0	1	2	3	4	5	6	7	8	9+
XVI	Life Sentence without Parole/Death Penalty for individuals at over the age of 18 For those under the age of 18 a term of 25 years to life.									
XV	280 m	291.5 m	304 m	316 m	327.5 m	339.5 m	364 m	394 m	431.5 m	479.5 m
	240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	312 - 416	338 - 450	370 - 493	411 - 548
XIV	171.5 m	184 m	194 m	204 m	215 m	225 m	245 m	266 m	307 m	347.5 m
	123 - 220	134 - 234	144 - 244	154 - 254	165 - 265	175 - 275	195 - 295	216 - 316	257 - 357	298 - 397
XIII	143.5 m	156 m	168 m	179.5 m	192 m	204 m	227.5 m	252 m	299.5 m	347.5 m
	123 - 164	134 - 178	144 - 192	154 - 205	165 - 219	175 - 233	195 - 260	216 - 288	257 - 342	298 - 397
XII	108 m	119 m	129 m	140 m	150 m	161 m	189 m	207 m	243 m	279 m
	93 - 123	102 - 136	111 - 147	120 - 160	129 - 171	138 - 184	162 - 216	178 - 236	209 - 277	240 - 318
XI	90 m	100 m	110 m	119 m	129 m	139 m	170 m	185 m	215 m	245 m
	78 - 102	86 - 114	95 - 125	102 - 136	111 - 147	120 - 158	146 - 194	159 - 211	185 - 245	210 - 280
X	59.5 m	66 m	72 m	78 m	84 m	89.5 m	114 m	126 m	150 m	230.5 m
	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
IX	36 m	42 m	47.5 m	53.5 m	59.5 m	66 m	89.5 m	101.5 m	126 m	150 m
	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
VIII	24 m	30 m	36 m	42 m	47.5 m	53.5 m	78 m	89.5 m	101.5 m	126 m
	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144
VII	17.5 m	24 m	30 m	36 m	42 m	47.5 m	66 m	78 m	89.5 m	101.5 m
	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
VI	13m	18m	2y	2y 6m	3y	3y 6m	4y 6m	5y 6m	6y 6m	7y 6m
	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
V	9m	13m	15m	17.5 m	25.5 m	38 m	47.5 m	59.5 m	72 m	84 m
	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
IV	6m	9m	13m	15m	17.5 m	25.5 m	38 m	50 m	61.5 m	73.5 m
	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
III	2m	5m	8m	11m	14m	19.5 m	25.5 m	38 m	50 m	59.5 m
	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
II	4m	6m	8m	13m	16m	19.5 m	25.5 m	38 m	50 m	59.5 m
	0 - 90 days	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57
I	0 - 60 days	0 - 90 days	3m	4m	5.5m	8m	13m	16m	19.5 m	25.5 m
	0 - 60 days	0 - 90 days	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29

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

Sentencing Complexities and Errors

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



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

	0	1	2	3	4	5	6	7	8	9+										
Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																				
XVI	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
XV	123	220	134	234	144	244	154	254	165	265	175	275	185	295	216	316	257	357	298	397
XIV	123	164	134	178	144	192	154	205	165	219	175	233	185	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	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
XI	51	68	57	75	62	82	67	89	72	96	77	102	98	130	108	144	129	171	149	198
X	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	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	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

Guideline minimum sentences for Rape 1 and Assault 1 (OSL 12) are much higher than current mandatory minimum sentence (60 months).

Guideline minimum for Sexually Violent Predator-Escape (OSL 10) is below the mandatory minimum sentence (60 months).

	0	1	2	3	4	5	6	7	8	9+										
Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life.																				
XVI	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
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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	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
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X	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	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
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IV	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
III	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
II	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
I	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
Unr																				

0 - 365 days

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

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.																				
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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	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
XI	51	68	57	75	62	82	67	97	72	96	77	102	98	130	108	144	129	171	149	198
X	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	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
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IV	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
III	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
II	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
I	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29
Unr																				

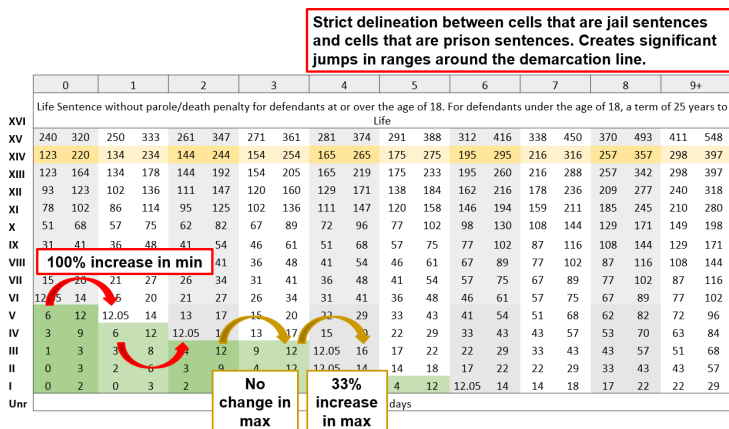
0 - 365 days

13%, 11%, 10%, 36%, 14%, 24%, 19%

- 3) Frequent errors have been reported by the Caseload Forecast Council and complexities reported by Department of Corrections regarding Criminal History Score (CHS) calculations particularly due to exceptions to standard scoring rules (multipliers).
- 4) There is a lack of consistency regarding sentence ranges. Sentence ranges do not increase consistently across criminal history score or with an increase in serious level. Ultimately, there is no answer to question: "why are the ranges what they are?"
- 5) Sometimes an increase in CHS will increase a sentence, but not always.

Sentencing Effectiveness

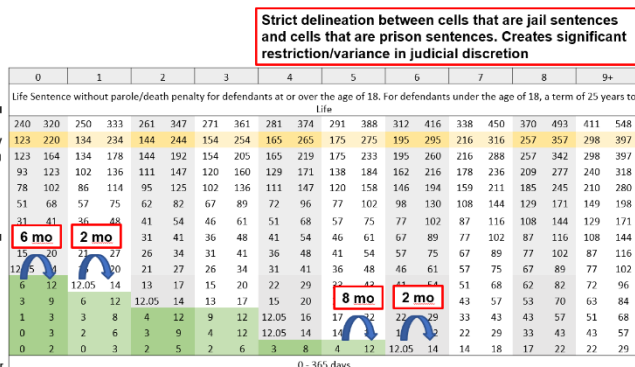
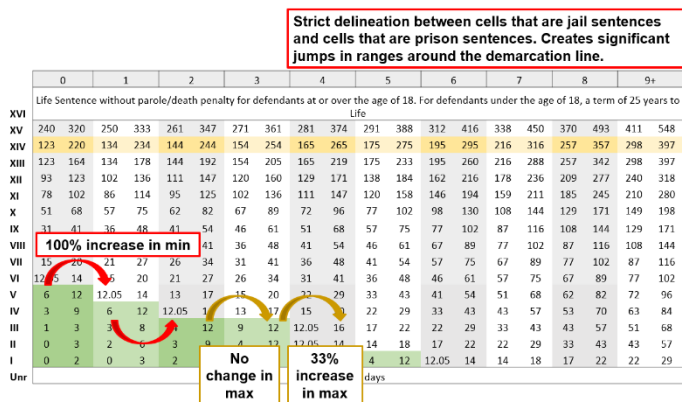
1. In many portions of the grid, judges have limited discretion to tailor sentences to the characteristics of the case. There are narrow and inconsistent ranges, strict cutoffs for local and state sanctions, and as described above, some sentencing ranges are not applicable since they exceed statutory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



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

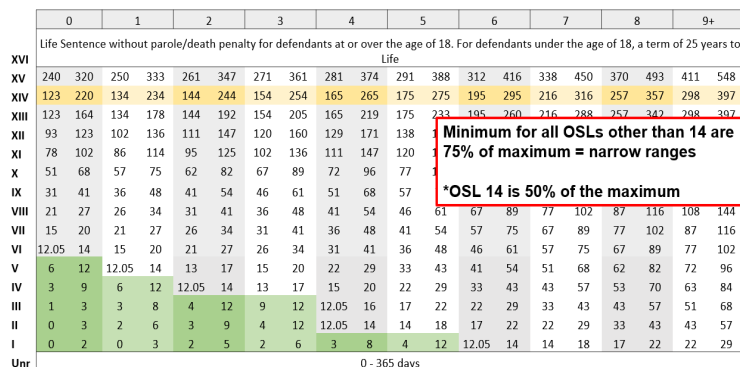
This strict delineation also creates significant restriction/variance in judicial discretion.

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



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

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



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

Promoting and Improving Public Safety

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

	0	1	2	3	4	5	6	7	8	9+
XVI	240	320	250	333	261	347	271	361	281	374
XV	123	220	134	234	144	244	154	254	165	265
XIV	123	164	134							
XIII	93	123	102							
XII	78	102	86							
XI	51	68	57							
X	31	41	36	48	41	54	46	61	51	68
IX	21	27	26	34	31	41	36	48	41	54
VIII	15	20	21	27	26	34	31	41	36	48
VII	12.05	14	15	20	21	27	26	34	31	41
VI	6	12	12.05	14	13	17	15	20	22	29
V	3	9	6	12	12.05	14	13	17	15	20
IV	1	3	3	8	4	12	9	12	12.05	16
III	0	3	2	6	3	9	4	12	12.05	14
II	0	2	0	3	2	5	2	6	3	8
I										
Unr										

0 - 365 days

OVERVIEW OF TASK FORCE WORK AND STATUS OF CONSENSUS DELIBERATIONS AS OF 9.1.22

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

The Task Force's Sentencing Grid Subgroup (Grid Subgroup) drafted individual potential recommendations and presented them to the full Task Force from August 2021 thru July 2022. Over the month of July 2022, the Grid Subgroup took the input gathered during those Task Force meetings to revise and then combine all of the grid-specific individual potential recommendations into one comprehensive new sentencing grid proposed recommendation. This Proposed Recommendation was presented to the full Task Force on August 4th, 2022 and confirmed ready for consensus deliberations.

The Task Force's consensus deliberations on the new felony grid proposed recommendation began on September 1st, 2022 (per the Task Force's Operating Procedures, consensus can be achieved at any full Task Force meeting where at least 12 of 20 members (or their designated alternates) are present). Each Task Force member conveyed their consensus decision 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).

Per Task Force consensus protocols, any member that is thumbs down 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 are to seek solutions that allow those thumbs to move up or sideways.

At the September 1st meeting, four member seats initially could not live with the proposed recommendation. Per the operating procedures, those members were asked to provide information about what and why their constituency could not live with the recommendation, their proposal that would allow for their constituency to be able to live with the recommendation, and how the change would meet the Task Force's three policy goals.

One of the members representing the interests of incarcerated persons proposed a change to the formula for OSL 17 (changing the % increase in the maximum for each additional CHS point from 105% to 104%) and with that change, would be able to live with the proposed recommendation.

The other members present were asked if they could live with this proposed change. Members that supported or could live with the recommendation could all live with this proposed change. The other member representing the interests of incarcerated individuals that could not live with the proposed recommendation, could live with this proposed change. The Washington Association of Prosecuting Attorneys who could not live with the proposed recommendation could also not live with this proposed change to OSL 17. One of the members representing crime victims, who could not live with the proposed recommendation had to leave the meeting before the Task Force discussed this proposed change to OSL 17.

Since the proposed change did not result in any additional members being unable to live with the recommendation, the change was made to OSL 17. The Task Force continued to discuss the concerns of the remaining members present that could not live with the recommendation. Unable to make further progress reaching consensus in the time remaining in the meeting, the Task Force decided that the Grid Subgroup would meet to continue to try and address the concerns and bring back a revised proposal at the October Task Force meeting.

The table below reflects the consensus decision at the conclusion of the 9.1.2022 meeting.

9.1.22: Consensus Decision on Proposed Recommendation: New Adult Felony Sentencing Guidelines Grid		
Task Force Member	Affiliation/Perspective Represented	Consensus Decision
Jon Tunheim, Co-Chair	Washington Association of Prosecuting Attorneys	Cannot live with
Waldo Waldron-Ramsey, Co-Chair	Representing Interests of Incarcerated Persons	Can live with (<i>with formula change to OSL 17</i>)
Rep. Roger Goodman, Co-Chair	Washington State House of Representatives	Can live with
Sen. Chris Gildon	Washington State Senate	Can live with

Sen. Manka Dhingra	Washington State Senate	Support
Rep. Carolyn Eslick	Washington State House of Representatives	Can live with
Sonja Hallum	Washington State Office of the Governor	<i>Not in attendance on September 1</i>
Francis Adewale	Statewide Reentry Council	Can live with
Julie Martin, Chief of Staff	Washington State Department of Corrections	Support
Judge Wesley Saint Clair	Washington State Sentencing Guidelines Commission	Support
Melody Simle	Statewide Family Council	Can live with
Judge Josephine Wiggs	Superior Court Judges' Association	Can live with
Gregory Link	Washington Association of Criminal Defense Attorneys; Washington Defender Association	Can live with
Chief Brian Smith (alternate)	Washington Association of Sheriffs and Police Chiefs	Can live with
Councilmember Derek Young	Washington State Association of Counties	Can live with
Judge Veronica Galván	Washington State Minority and Justice Commission	Can live with
Chief James Schrimpscher	Fraternal Order of Police, Labor Organization Representing Active Law Enforcement Officers in Washington State	Can live with
Nick Straley (alternate)	Representing Interests of Incarcerated Persons	Cannot live with
Tiffany Attrill	Representing Interests of Crime Victims	Cannot live with
Riddhi Mukhopadhyay	Representing Interests of Crime Victims	<i>Not in attendance on September 1</i>

The summary that begins on page 7 of this document presents the updated version of the new adult felony sentencing guidelines grid proposed recommendation, as it stood at the end of the 9.1.22 Task Force meeting.

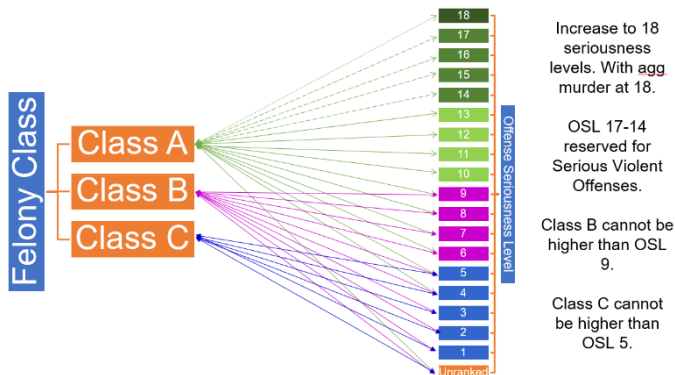
PROPOSED RECOMMENDATION: The New Felony Sentencing Guidelines Grid Proposal

	0	1	2	3	4	5	6	7	8	9+	Aggravator Departure Cap (advisory, greater than is presumptively unreasonable)	Repeat Serious Violent/Violent or Repeat Domestic Violence 9.94A.525(21)										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	320	249	332	259	346	269	359	280	374	291	389	303	404	315	421	328	437	341	455	45.0	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																					

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

Core Components

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



	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	249	332	259	346	269	359	280	374
16	114	153	126	168	138	185	152	203	168	224
15	101	135	111	148	122	163	134	179	148	197
14	87	117	96	128	106	141	116	155	128	171
13	59	99	65	108	71	119	79	131	86	144
12	52	87	57	96	63	106	70	116	77	128
11	45	76	50	84	55	92	61	101	67	112
10	39	65	43	71	47	78	52	86	57	95
9	19	33	22	37	26	43	30	50	34	57
8	17	28	19	33	22	38	26	43	30	50
7	14	24	17	28	19	32	22	37	25	43
6	12	20	14	23	16	27	18	31	21	36
5	3	12	4	14	5	17	6	20	7	24
4	2	9	3	11	4	14	5	17	6	20
3	2	7	2	9	3	11	4	13	4	16
2	0	3	1	6	2	7	2	8	3	10
1	0	2	0	3	1	5	1	6	2	7
Unr	0 - 365 days									

- 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

Formulas and Structure¹

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

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

- a. Anchor: Criminal History Score (CHS) 0 minimum of 240 months (aligned with the mandatory minimum).
- b. Percentage increase in maximum for each additional criminal history score point: 104%
- c. Percentage of the maximum used to establish the minimum: 75%

Formula 2: OSL 16-14: Serious Violent Offenses

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

Formula 3: OSL 13-10: Violent Offenses

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

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

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

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

- a. Anchor: Criminal History Score 9+ maximum for OSL 5 is 60 months which aligns with the statutory maximum sentence for class C felonies.

- b. Calculation of other maximums at CHS 9+: Each decrease in OSL decreases the maximum sentence for CHS 9+ by 10.5 months.
 - c. Maximum for CHS 0: 20% of the maximum at CHS 9+
 - d. Percentage increase in maximum for each additional criminal history score point: 120%
 - e. Percentage of the maximum used to establish the minimum: 30%
3. After calculating ranges, values are floored. That is, all numbers after the decimal are removed and not rounded. Thus 29.1 would become 29 and 29.9 would become 29.

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

4. The offense-specific exceptions to standard scoring rules (“multipliers”) are eliminated (see Attachment D.) and a new column is added for adjustments to the standard range for qualifying individuals. Individuals are eligible for the expanded range if their current offense is a violent or serious violent offense and they have at least one prior conviction for a violent or serious violent offense. Individuals are also eligible for the expanded range if their current offense is a domestic violence offense and they have at least one prior conviction for a domestic violence offense.
- a. The maximum sentence of the range should increase 10% for individuals who qualify for the repeat offending column.
 - b. Qualifying domestic violence offenses are those included in RCW 9.94A.525(21):
 - i. (a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no-contact or protection order (RCW 7.105.450 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);
 - ii. (b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after July 23, 2017, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW

9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030;

New Column: Aggravated Departure Cap

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

Recalibration of Offenses

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

Addresses Sentencing Complexities and Errors by:

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

Addresses Effectiveness of the Sentencing System:

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

Promoting and Improving Public Safety:

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