

To: Sentencing Guidelines Commission  
From: Dave Boerner  
Date: October 3, 2014  
Subject: Tentative Ideas for Reducing Sentence Length for Seriousness Level I – IV Non-Violent Offenders

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Attached are some very preliminary ideas of how we might reduce sentence length for non-violent offenders and thus contribute to a reduction in the projected need for an increase in prison beds. They involve a new grid for non-violent offenders in Seriousness Levels I- IV excluding drug and sex offenders and potential changes in the scoring rules used in calculating the Offender Score. My thinking is that none of these changes would apply to violent, sex or drug offenders, but would apply only to non-violent offenders. These proposals have not been subject to jail and prison population impact analysis. I thought it best to get your ideas on which – or any – of these proposals is worth further explanation.

I fully recognize these ideas will be controversial, but we live in challenging financial times and there seems to be a developing consensus that the status quo is not acceptable. As I was thinking through these ideas, I was reminded of the old story about the difficulties of moving a grave yard. “Remember, everyone is here for a reason and somebody cares about all of them.” The same is certainly true for sentencing reform. I recall the discussion which led to all of these provisions being adopted and I supported most of them as good policy for their times. The question before us is whether times have changed.

### **Ideas for Reducing Offender Scores**

1. Modify RCW 9.94A.525 (5) to count all prior multiple offenses sentenced on the same day as the most serious offense only. This idea is to repeal the “same criminal conduct” limitation and count all convictions which are sentenced together as one prior conviction (the most serious). Currently priors with different victims or where the crime occurred on different days are all counted even if they were originally sentenced on the same day to concurrent sentences.
2. Eliminate the current double counting in RCW 9.94A.525 (16) for prior burglaries when sentencing for burglary.
3. Eliminate RCW 9.94A.525 (19) which adds an additional point for crimes committed while the offender was on community custody.
4. Eliminate RCW 9.94A.525 (20) which provides for triple counting for prior Taking and Riding and Auto Theft when sentencing for a current Taking and Riding or Auto Theft.

### **Separate Sentencing Grid for Non-Violent Offenders (not applicable for violent, sex or drug offenses)**

#### **Offender Score**

<b>Seriousness Level</b>	<b>0-1</b>	<b>2-4</b>	<b>5-7</b>	<b>8-10</b>	<b>10-12</b>	<b>13+</b>
<b>IV</b>	3-9	12+-18	24-36	36-48	48-60	60-72
<b>III</b>	1-3	3-9	12+ - 18	24-36	36-48	48-60+
<b>II</b>	0-90	2-6	12+ - 18	18 – 24	24-36	36-48
<b>I</b>	0-60	2-8	8-12	12+ - 18	18-24	24-36