



**OKLAHOMA CRIMINAL JUSTICE RECLASSIFICATION  
COORDINATION COUNCIL**

**FINAL REPORT**

**ATTORNEY GENERAL JOHN O'CONNOR  
CHAIRMAN**

**DECEMBER 31, 2021**

## **EXECUTIVE SUMMARY**

In 2018, SB1098<sup>1</sup> was passed to create the twenty-two member Criminal Justice Reclassification Council (“CJRCC”). Pursuant to SB1098, the Council was tasked with the following duties:

- Reviewing potential recommendations regarding the classification of all felonies into appropriate categories;
- Recommending appropriate sentence lengths for each class of felonies;
- Recommending appropriate enhanced sentences for crimes committed after prior convictions; and
- Recommending other appropriate changes to improve the criminal justice system in Oklahoma and ensure the public safety of its citizens.

Further, the Council was tasked with making recommendations “intended to reduce or hold neutral the prison population, as well as consider fiscal impact statements of all recommendations.” To that end, the CJRCC established various subcommittees which examined the State of Oklahoma’s criminal justice system and laws. These existent laws are the product of over a century of judicial and legislative pronouncements and enactments. Some of these laws are also the product of state constitutional amendments by the vote of the citizens of Oklahoma. Understandably, the task was and remains daunting in its scope and breadth. Any recommendations will have impacts not only upon fiscal considerations - but also upon public safety and victim’s rights – which should be the guiding principle of government oversight of its people.

Implicit within the work of the CJRCC is one core understanding regarding its recommendations. The recommendations for modifications of Oklahoma’s criminal law statutes cannot and should not be severed from Oklahoma’s urgent need for dedicated funding to deliver substantive and meaningful rehabilitative and treatment services. One cannot and should never be separated from the other.

For the Oklahoma Department of Corrections to perform its “corrections” mandate, it needs complete funding to deliver the necessary treatment and counseling services to its wards both incarcerated and on probation. For the Oklahoma Department of Mental Health and Substance Abuse Services to fulfill its purpose, it needs funding to deliver the necessary treatment and counseling services to its attendant population which often intersects with the criminal justice system. For the judiciary, district attorneys and public defenders to fulfill their purposes, each needs consistent and adequate funding to provide meaningful oversight of the system of justice which the public expects to be delivered on a daily basis.

## **RECLASSIFICATION PROPOSAL**

The Reclassification Proposal submitted by the Council<sup>2</sup> accomplishes all of the requisite statutory objectives. The Council reviewed all felonies listed in the Oklahoma statutes and classified each crime into one of 14 different categories from the most serious to lesser crimes. For each category, an appropriate sentence range has been recommended. For serial offenders, an appropriate enhanced sentence structure has been recommended.

---

<sup>1</sup>SB1098 is codified at 22 O.S.Supp.2018, § 1701.

<sup>2</sup> The final version of the full reclassification proposal is attached as Exhibit A.

In sum, the Reclassification Proposal does the following:

- Classifies each felony crime into one of 14 different categories assigned by letter.
- The crimes are classified in order of severity. The most serious category of offenses is Category Y and contains felonies that are currently punishable by death, life without parole, and life imprisonment. This includes First Degree Murder.
- Remaining felonies have been placed in Categories A-D, with the most serious felonies in Category A1 to the less serious felonies contained in Category D3.
- Crimes in Class A1 include second degree murder, while crimes in the lowest class, D3, include offenses such as false advertising.
- Recommends an appropriate punishment range for each category of offenses ranging from zero to death.
- Recommends appropriate enhanced sentencing ranges for serial offenders.
- Punishment ranges for each category are listed in the table below:

<u>CLASS</u>	<u>NEW RANGE OF PUNISHMENT</u>	<u>MUST SERVE</u>	<u>1 PRIOR FELONY CONVICTION</u>	<u>2 OR MORE PRIORS</u>	<u>(Sample Crimes)</u>
<b>Y</b>	<b>NOT LESS THAN 30, LWOP, DEATH</b>	<b>85%</b>	<b>40+ years</b>	<b>LIFE</b>	First Degree Murder
<b>A1</b>	<b>10 TO 45 YEARS</b>	<b>75%</b>	<b>20 + YEARS</b>	<b>85%</b>	Second Degree Murder, Sex. Abuse of a Child
<b>A2</b>	<b>5 TO 40 YEARS</b>	<b>75%</b>	<b>10 + YEARS</b>	<b>85%</b>	Human Trafficking, Manslaughter
<b>A3</b>	<b>2 TO 40 YEARS</b>	<b>75%</b>	<b>5 + YEARS</b>	<b>85%</b>	ABDW, Drive-by Shooting, Domestic A&B with DW
<b>B1</b>	<b>3 TO 20 YEARS</b>	<b>50%</b>	<b>5 TO 40 YEARS</b>	<b>65%</b>	Acc. To Murder II, Forc. Sodomy, Child Prostitution, Racketeering

<b>B2</b>	<b>2 TO 20 YEARS</b>	<b>45%</b>	<b>3 TO 30 YEARS</b>	<b>60%</b>	Kidnapping, Child Trafficking, 2 <sup>nd</sup> Deg. Rape, Agg. Drug Trafficking
<b>B3</b>	<b>1 TO 15 YEARS</b>	<b>45%</b>	<b>3 TO 25 YEARS</b>	<b>55%</b>	Agg. DUI, Dist. Of CDS, Embezzlement
<b>B4</b>	<b>1 TO 10 YEARS</b>	<b>40%</b>	<b>3 TO 20 YEARS</b>	<b>50%</b>	Dom. A&B w/DW, Child Porn., Manuf. CDS
<b>B5</b>	<b>1 TO 5 YEARS</b>	<b>40%</b>	<b>2 TO 10 YEARS</b>	<b>50%</b>	Stalking, Fail. To Comply w/Sex Offender laws, A&B
<b>C1</b>	<b>0 TO 10 YEARS</b>	<b>30%</b>	<b>2 TO 20 YEARS</b>	<b>50%</b>	Assist felon escape, 3 <sup>rd</sup> degree Arson, Dist. Of CDS to a minor
<b>C2</b>	<b>0 TO 7 YEARS</b>	<b>25%</b>	<b>2 TO 15 YEARS</b>	<b>40%</b>	Gambling, Grand Larceny (\$15k or more), DUI-2 <sup>nd</sup> , securities fraud
<b>D1</b>	<b>0 TO 5 YEARS</b>	<b>20%</b>	<b>2 TO 10 YEARS</b>	<b>30%</b>	Wiretapping crimes, Bribery, Neglect Vulnerable Adult, Medicaid Fraud; larceny (\$2,500-\$15k)

<b>D2</b>	<b>0 TO 2 YEARS</b>	<b>20%</b>	<b>1 TO 7 YEARS</b>	<b>30%</b>	Attempt to Escape, Abortion crimes, Dist. Of Imitation CDS (2 <sup>nd</sup> )
<b>D3</b>	<b>0 TO 2 YEARS</b>	<b>10%</b>	<b>1 TO 5 YEARS</b>	<b>20%</b>	False advertising, agricultural and forestry crimes, Grand Larceny (\$1k-\$2,500); trespass, bail jumping

**NOTES**

- Most of the minimum punishments have been lowered or removed, and in some cases, the death penalty option has been removed.
- In almost all cases, the maximum penalties have been lowered.
- In order to provide certainty to defendants, victims, and society, we propose that each defendant must complete some portion of the sentence ranging from 10% to 85% before release.
- All classes contain a range of punishment with five categories starting at **zero** and seven categories starting at **five years or less**.

**ENHANCEMENT**

The Council also believes recidivism is a major concern and a threat to public safety. To address these concerns, we have proposed the following enhancement structure:

- After conviction of one felony, an enhanced (higher range of) punishment is triggered for each category.
  - For example, a defendant convicted of a felony in Class B1 would receive punishment in the range of 3-20 years for a first offense and must serve 50% of his sentence before release. If he has **one prior felony conviction**, his range of punishment becomes 5-40 years.
- After conviction of two or more felonies, a defendant must serve a higher percentage of the enhanced punishment.
  - For example, a defendant convicted of a felony in Class B1 would receive punishment in the range of 3-20 years for a first offense and must serve 50% of his sentence before release. If he has **one prior felony conviction**, his range of punishment becomes a minimum of 5-40 years. With **two or more prior**

**convictions**, his range of punishment is still 5-40 years, but he must now serve 65% of that sentence.

## **OKLAHOMA DEPARTMENT OF CORRECTIONS REPORT**

In order to determine whether the Reclassification proposal either reduced or held the prison population neutral, the Oklahoma Department of Corrections provided an analysis of the reclassification proposal. The report outlines methodology used to calculate the overall sentencing impact on the ODOC population<sup>3</sup>.

ODOC began by pulling data for FY 2020 releases. Using release data allowed us to capture the time inmates spent in prison and county jail compared to the amount of time to which an inmate was sentenced. The release data also captures all forms of release whether to parole, to the street, to probation, or to consecutive sentences in other jurisdictions. Also, between FY16 and FY20, neither the average sentence lengths nor time served significantly varied.

- Data was extracted to establish a strong sampling of each of three groups. The first group consisted of inmates whose controlling offense was listed in 21 O.S. 13.1 (85% crimes). The second group was of those serving time for crimes that are listed in 57 O.S. 571 but not listed in 21 O.S. 13.1 (historically referred to as violent crimes). The last group was inmates serving time for crimes listed in neither 21 O.S. 13.1 nor 57 O.S. 571. Each group was sampled with enough crimes to yield a significant portion of the inmates within the group.
- Upon reviewing the Sentence Length and Length of Stay data, known sentences were compared to the proposed range of punishment according to the draft proposal presented on September 23, 2021. Any sentences outside the proposed range were adjusted to fit within the range and the difference calculated. Sentences below the proposed range of punishment were increased and sentences above the range of punishment were decreased. The net difference was calculated for a total change in days sentenced. However, the proposal includes minimum mandatory percentage requirements for all sentences. As a result, the difference in days sentenced had to be adjusted to account for this change. Thus, a ten year difference in the sentence length could only amount to a change of 2.5 years for a 25% crime while it would equate to 8.5 years for an 85% crime. For crimes that already maintained a minimum percentage of time served, the difference between the two required percentages was used.
- Upon arriving at a total change of time served for each sampled crime, this factored into that group's numbers for a total impact of that group. Then each group was factored into its percentage of the total prison population for a grand total impact.
- Of note: the impact of these changes will not occur instantly, but over the course of the lifetime of a prosecution and sentencing of an inmate (approximately 45 years). However,

---

<sup>3</sup> This report is attached as Exhibit "B"

since most inmates are sentenced to ten years or fewer, the majority of the impact would manifest within the next ten years, as noted within each crime analyzed.

- ODOC predicts the proposal will have a neutral impact on the inmate population. There would be a nominal decrease in the average length of stay across all inmates of 0.5054 years per inmate. Using current data, once the entire impact manifested, ODOC estimates approximately 860 fewer inmates overall.

## **OTHER RECOMMENDATIONS**

In order to enhance the effectiveness of these recommendations, we have proposed the following:

- **We recommend codification of the DOC credit system to enhance transparency and accountability.** Victims and defendants, as well as society at large, deserve clarity and consistency with regard to how a criminal sentence will be served. In turn, corrections officials need the flexibility of providing credits to incentivize good behavior and rehabilitation.
- Create and provide funding for a statewide interface/data exchange program that would accept all agency information from intake through discharge to final release. This would allow all access points to communicate and would allow the state to track outcomes and provide accountability.
- Create a statewide warrant search system. This would allow law enforcement agencies to operate more efficiently and provide accountability among the agencies.
- Support and promote early diversion programs for youth and young adults with an emphasis on mental health programming and addiction treatment.
- Provide more funding for specially trained mental health emergency responders who can assist officers in diverting offenders to appropriate treatment.
- Work with OMES to identify the savings from SQ 780 and distribute it to the County Community Safety Investment Fund as mandated and directed by statute.
- Provide funding to screen local jail inmates for criminogenic risks, mental health, and substance use disorder so inmates with these issues could be appropriately diverted to treatment programs.
- Create a pilot program (out-of-custody docket for deprived children and children in need of supervision) which would offer support and guidance for families and divert youths from victimization and criminal and mental health court system involvement. The program should partner with a research university to track outcomes.
- Provide more training for the stakeholders in the juvenile justice system to support better outcomes.
- Support the expansion of juvenile drug courts and mental health courts. Currently, there are eight juvenile drug courts and 22 mental health courts, but more individuals could be served by these programs.
- Provide more funding for re-entry programs, post-incarceration supervision, and treatment of individuals while on probation and parole to discourage recidivism and encourage recovery.

- Provide a certificate of rehabilitation for those who have completed their sentences to recognize formal restoration and to demonstrate the offender is no longer a threat to public safety. This would help with future employability and be a formal recognition of reparation.

## **CONCLUSION**

Promises have been made to Oklahomans which have never been delivered upon. Now, Oklahoma, like many other states, is having to deal with a multi-front crisis in drug abuse and addiction, adverse childhood experiences associated with unnecessary trauma exposures, domestic violence, mental health treatment and stabilization, and recidivism. Comprehensive reform requires comprehensive policy and fiscal commitment. It is not an accomplishment to pass stopgap measures and claim credit while at the same time passing to subsequent generations what should have been done from the outset. Criminal justice reform and rehabilitation requires adherence to public safety concerns, listening to voices of the victims, understanding the origins of addiction, compassion for mental health limitations, and a commitment to the availability of sufficient treatment services for those incarcerated or on probation and for those in both rural and urban communities. These recommendations have been thoroughly prepared. It is now the job of the legislature to draft policies that will capture the spirit of these recommendations.



## **Appendix A: Members**

Chairman John O'Connor, Oklahoma Attorney General, Lori Carter Deputy First Assistant as Designee  
Vice-Chairman Steve Kunzweiler, District Attorney, District 14  
Mike Fields, District Attorney, District 4  
Wendell Franklin, Chief, Tulsa Police Department  
Donald Cluck, Chief, Tuttle Police Department  
Vic Regalado, Tulsa County Sheriff  
Clay Sander, Dewey County Sheriff  
Scott Crow, Director, Department of Corrections  
Robert Ravitz, Chief Public Defender, Oklahoma County  
Cindy Danner, General Appeals Division Chief, Oklahoma Indigent Defense System, Designee For Craig Sutter, Executive Director, Oklahoma Indigent Defense System  
Nisha Wilson, Director of Criminal Justice Services, Department of Mental Health and Substance Abuse Services, Designee for Carrie Slatton-Hodges, Commissioner, Department of Mental Health and Substance Abuse Services  
Ricky Adams, Director, Oklahoma State Bureau of Investigation  
Donnie Anderson, Director, Oklahoma Bureau of Narcotics and Dangerous Drugs  
Jari Askins, Administrative Director of the Courts  
Tom Bates, Executive Director, Pardon and Parole Board  
Candida A. Manion, Executive Director, Oklahoma Coalition Against Domestic Violence and Sexual Assault  
Emily Crouch, Senior Vice President, Oklahoma State Chamber of Commerce, Designee for Chad Warmington, President, Oklahoma State Chamber of Commerce  
Tim Tardibono, Executive Director, OK County Criminal Justice Advisory Council, Designee For Roy Williams, President, Oklahoma City Chamber of Commerce  
Jeffrey Cartmell, Counsel for Secretary of State, Designee for Governor Kevin Stitt  
The Honorable Darrell Weaver, Oklahoma Senate, District 3  
The Honorable Ross Ford, Oklahoma House of Representatives, District 76  
Kenneth Watson, Oklahoma County District Judge, Retired

**EXHIBIT A**  
**Crime Classification Spreadsheet**

**EXHIBIT B**

## **Reclassification Proposal ODOC Analysis**