



**Offense Group 3:
Ranking Exercise Feedback**

July 24, 2025

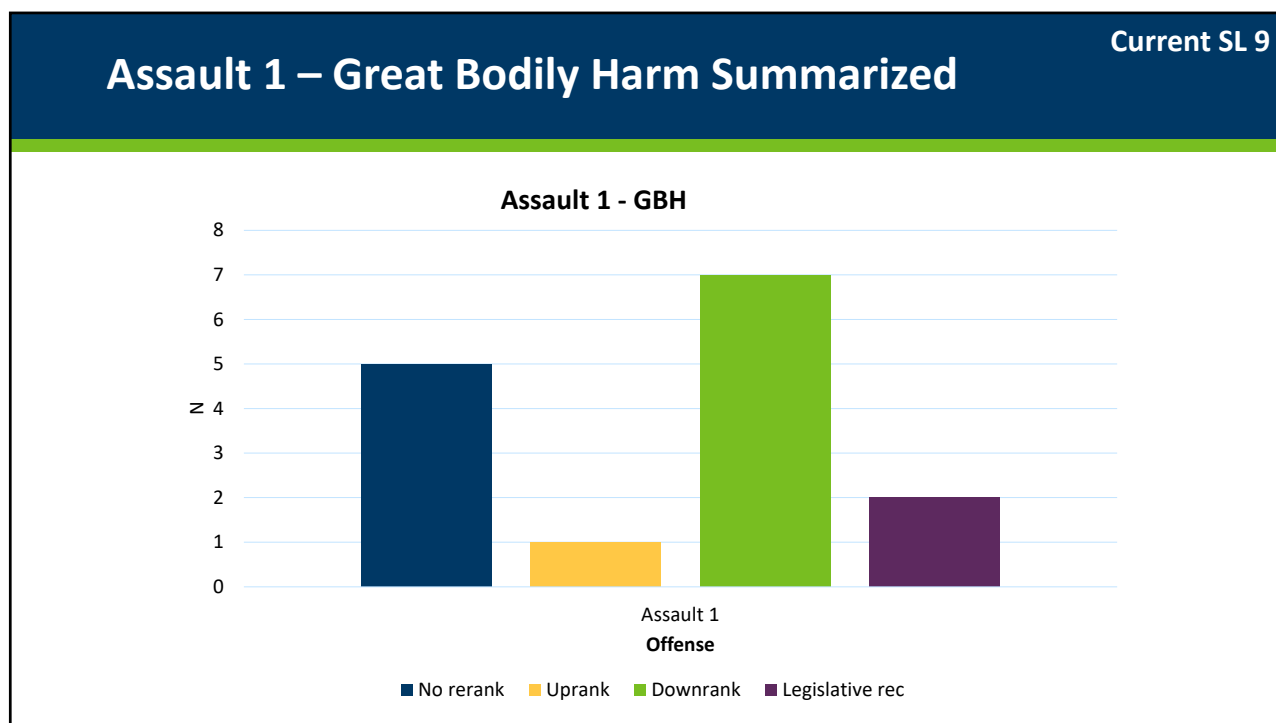
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Before we begin...

Explanation of process

- Commissioners completed ranking forms for 18 offenses in the Offense Group 3 packet.
- Completed packets were due to MSGC staff by **June 23, 2025**.
- Staff organized Commissioner responses by offense, determined the total number of selections for each ranking idea, and summarized any notes Commissioners provided.

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Current SL 9

Assault 1 – Great Bodily Harm: Some Highlights

- The most common response was to downrank to SL 8 or to a new intermediate SL between 8 and 9.
 - The offense is not proportional to other SL 9 offenses .
 - The number of prosecutor-agreed-upon departures is a signal that the offense is ranked too high.
- Another common response was not to rerank.
 - Below-average departure rates.
 - Not using level of harm to determine the severity level.
- A rationale for upranking was due to intent to injure and the stat max cannot be reached at SL 9.
- A legislative recommendation for this offense included redefining the mens rea for the assaults if the resulting harm is legislative intent for high max.

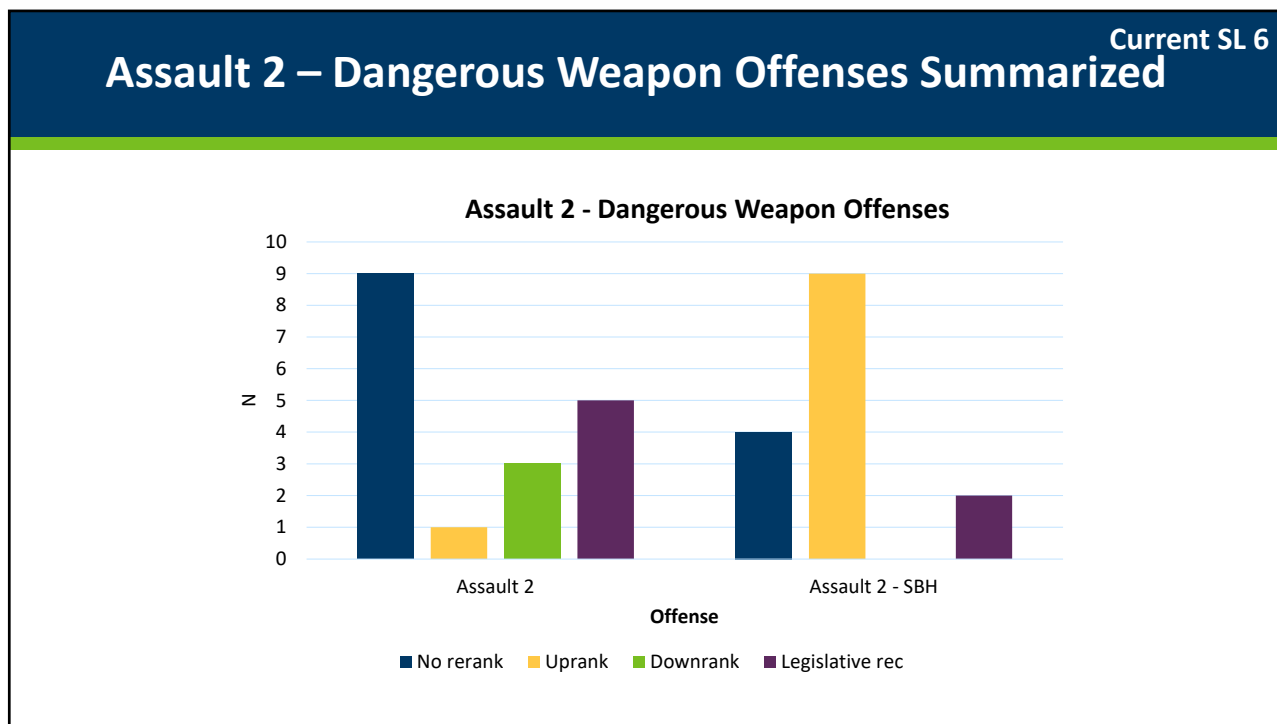
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Assault 1 – Great Bodily Harm				Current SL 9
Reranking option	N	New SL	Notes	
Do not rerank	5	–	<ul style="list-style-type: none"> All 1st Degree Assaults with GBH should be ranked the same and yet they are not. If the resulting harm is the driving force behind rankings, then the elements of any given offense should not be given more weight or deference than the resulting harm. Departures are not too high and seem to be effectively addressing atypical cases. 	
Uprank	1	SL 10	<ul style="list-style-type: none"> Assault shows intent. Can't reach stat max at SL 9. 	
Downrank	3	SL 8	<ul style="list-style-type: none"> Makes sense for this to match other similar crimes and be ranked lower than crime that results in death. 	
	4	Int. SL 8-9	<ul style="list-style-type: none"> Less harm than other offenses ranked at level 9. Should be the same SL as other offenses resulting in GBH. Keep SL for death cases unless mandatory minimum required. After State v. Fleck, the ranking doesn't make sense if look at only intent to assault, which is a misdemeanor offense. 	
Dispositional line	0	–		
Legislative	2	–	<ul style="list-style-type: none"> Redefine the mens rea for the assaults if the resulting harm is legislative intent for high stat max Increase statutory maximum penalty. Should not be the same SL as Manslaughter 1st degree 	
Other	0	–		

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Assault 1 – Great Bodily Harm		Current SL 9
Additional Notes		
<ul style="list-style-type: none"> The departure rates are below the five-year averages. It's not rational to disregard the different levels of harm (death vs GBH) because within degrees of assault, different levels of harm matter regardless of the actor's intent as to degree of harm. On the other hand, whether a minor assault leads to death or "only" great bodily harm is often a matter of luck, not the actor's intent or degree of risk taking. 20-year statutory maximum for Assault 1-GBH was initially based on the premise that the intent was to assault and inflict GBH. Concern about the arguable sentencing disparity between this offense and Manslaughter First Degree. The number of prosecutor-agreed-upon departures suggests that there is some concern about the presumptive sentence connected with this offense. This should be a presumptive commit – another alternative would be to consider an intermediate sentence between SL 8 and 9. 		

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- ## Current SL 6
- # Assault 2 – Dangerous Weapon Offenses: Some Highlights
- There was general agreement that Assault 2 and Assault 2 – Substantial Bodily Harm should not be ranked at the same severity level.
 - Some believed that these offenses should be treated differently depending on the type of weapon used while committing this offense while others did not.
 - Some suggested that Assault 2 cases should be treated differently depending on the type of assault committed (causing fear, attempting to inflict bodily harm, and inflicting bodily harm).
 - There were multiple comments about a legislative recommendation to remove or reconsider mandatory minimums.
 - Cause for concern was expressed about disparity in sentencing for this offense, specifically the higher charge rate for white defendants but a higher incarceration rate for black defendants.

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Current SL 6			
Assault 2 – Dangerous Weapon			
Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> Makes sense to rank equally as crime with substantial bodily injury as weapon involvement increases risk of lethality, instills fears and is an automatic threat.
Uprank	1	SL 7	<ul style="list-style-type: none"> Cannot meet max currently.
Downrank	2	SL 5	<ul style="list-style-type: none"> Lower ranking may reduce dispositional departures and is more proportional to the types of assault 2. Very high departure rates, mainly because of mandatory minimum for all types of assault 2 offenses, especially for other weapon than firearm at GTZ and first offense.
	1	Consolidate SL 5 & 7	
Dispositional line	0	–	
Legislative	5	–	<ul style="list-style-type: none"> There should be a distinction between the 3 types of assaults. Remove mandatory minimum. Reconsider the question of mandatory minimum sentences for non-firearm offenses and the first offense.
Other	2	–	<ul style="list-style-type: none"> Add GTZ mitigating factor; maybe also youth in a group.

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Current SL 6	
Assault 2 – Dangerous Weapon	
Additional Notes	
<ul style="list-style-type: none"> This statute covers widely different behaviors, many of which do not justify imprisonment. Departure rates will remain high unless there are substantial legislative changes. The 3 kinds of assault are seemingly deemed equally serious based on the statute. Perhaps any change should be made by the legislature. Whether harm results is often just a matter of luck, not the actor's intent or degree of risk taking. Is it appropriate to rank both subdivisions of 2nd Degree Assault (609.222) the same given the additional element of substantial bodily harm for Subd. 2? It would seem more appropriate to rank Subd. 2 at SL7. Doesn't make sense that Assault 2 and Assault 2 with SBH are ranked the same. Interviews indicate that practitioners think the offense is appropriately ranked, but do not think the mandatory minimum should apply. The mandatory minimum is overriding the guideline sentence, but practitioners are then overriding the mandatory minimum by using the statutory allowance for a departure. Removing the mandatory and leaving it at SL 6 should balance things out. Interested in further discussion. What we are seeking to punish is the state of mind, not the ultimate result. There are a lot of different ways to commit this offense. The legislative requirement of mandatory minimum sentences binds our hands, but the number of departures and percentage agreed to by prosecutors suggest that the legal community believes some of the sentences are too harsh. I would address the questions related to this offense vs. Assault/dangerous weapons/SBH by up-ranking the latter. 	

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Assault 2 – Dangerous Weapon, Substantial Bodily Harm Current SL 6

Reranking option	N	New SL	Notes
Do not rerank	4	–	
Uprank	9	SL 7	<ul style="list-style-type: none"> • More of a threat to safety of others when a weapon is used. • The charge indicates a higher level of harm. • Uprank if keeping Assault 2 (no SBH) at SL 6. • Moving this up to SL 7 shows that the offense is more serious than the version of Assault 2 in which there was no SBH. • It is not rational to rank this offense the same as the previous second-degree assault offense where no substantial bodily harm was inflicted. • Meet stat max.
Downrank	0	–	
Dispositional line	0	–	
Legislative	2	–	<ul style="list-style-type: none"> • Create resource for turning in weapons, multiple convictions equals weapons ban. • Eliminate mandatory minimum for weapons other than firearms.
Other	1	–	<ul style="list-style-type: none"> • Add GTZ mitigating factor

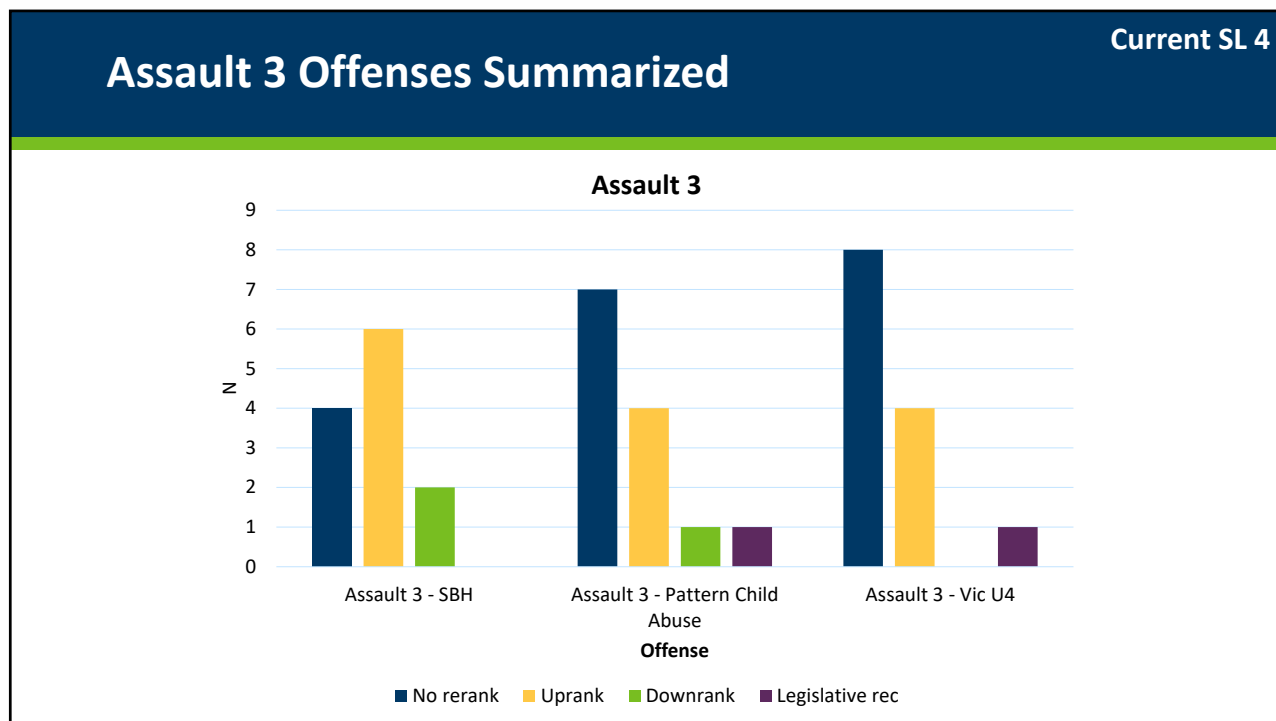
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Assault 2 – Dangerous Weapon, Substantial Bodily Harm Current SL 6

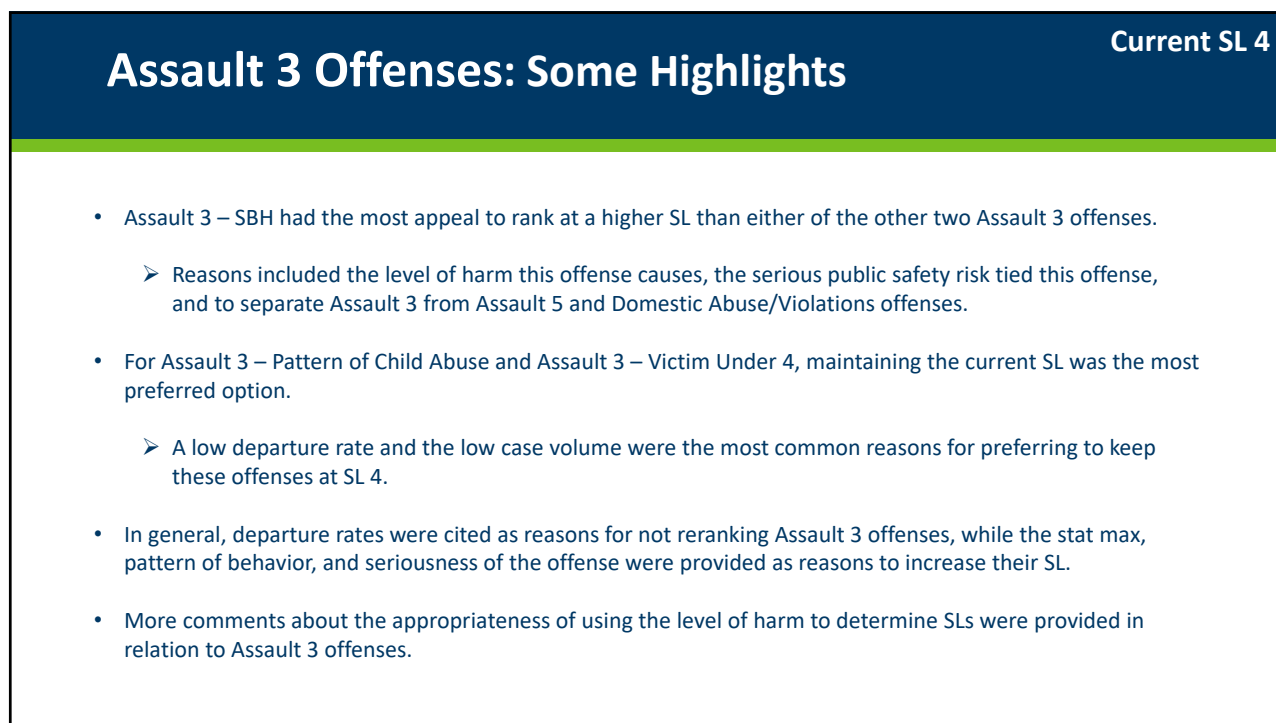
Additional Notes

- Whether harm results is often just a matter of luck, not the actor's intent or degree of risk taking.
- Need to consider disparities and bias around race and social economic status. Demographics show higher rate of charge and conviction by white individuals, yet they yield a lower rate of incarceration as compared to African Americans.
- Is it appropriate to rank both subdivisions of 2nd Degree Assault (609.222) the same given the additional element of substantial bodily harm for Subd. 2? It would seem more appropriate to rank Subd. 2 at SL 7.
- Other weapons used has higher departure rate, especially at GTZ, so could eliminate the mandatory minimum commitment.
- Moving this up to SL 7 shows that the offense is more serious than the version of Assault 2 in which there was no substantial bodily harm. Currently there is not a high departure rate, indicating that this offense is not as broadly applicable as the other offense. Moving it up may only be symbolic. Not sure the sentences will change much.
- Interested in further discussion. What we are seeking to punish is the state of mind, not the ultimate result. There are a lot of different ways to commit this offense.
- There are serious public safety implications with this offense.

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Assault 3 – Substantial Bodily Harm				Current SL 4
Reranking option	N	New SL	Notes	
Do not rerank	4	–		
Uprank	5	SL 5	<ul style="list-style-type: none"> Upranking separates the Assault 3 from the Assault 5. The harm seems to justify a higher ranking. Serious public safety concerns here. 	
	1	SL 6	<ul style="list-style-type: none"> Meet stat max. 	
Downrank	2	SL 3	<ul style="list-style-type: none"> Significant dispositional departures and different compared to other crimes in same category. It is not rational to have this a SL 4 (proven) when Assault 5 DA and OFB (with no harm that needs to be proven) are also SL 4. 	
Dispositional line	0	–		
Legislative	0	–		
Other	1	–	<ul style="list-style-type: none"> Add GTZ mitigating factor. 	

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Assault 3 – Substantial Bodily Harm		Current SL 4
Additional Notes		
<ul style="list-style-type: none"> Interested in further discussion. What we are seeking to punish is the state of mind, not the ultimate result. There are a lot of different ways to commit this offense. Ranking this offense the same as the Assault 5/Domestic Assault with two prior QDVROs seems to lack rationality. 		

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Assault 3 – Pattern of Child Abuse				Current SL 4
Reranking option	N	New SL	Notes	
Do not rerank	7	–		
Uprank	4	SL 5	<ul style="list-style-type: none"> • Pattern of prior offenses. • The pattern of conduct seems to justify a higher ranking. • Child victim. Past pattern would seem to trend to higher recidivism. Stat max. 	
Downrank	1	SL 3	<ul style="list-style-type: none"> • Very few cases. Stat max is same as Assault 3 but doesn't include SBH. 	
Dispositional line	0	–		
Legislative	1	–	<ul style="list-style-type: none"> • Case management resources to aid families in meeting basic needs and reducing overall stressors, resources for parenting classes and abuse prevention, and intervention programming focused on parenting. 	
Other	0	–		

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Assault 3 – Pattern of Child Abuse		Current SL 4
Additional Notes		
<ul style="list-style-type: none"> • Very rarely-prosecuted offense so hard to identify typical case. • Would like to know what the outcome was for these cases since incarceration did not occur. Would suggest parenting and abuse prevention programming as part of sentencing. • Given the lack of data regarding this charge, would be hesitant to assume a change is necessary. 		

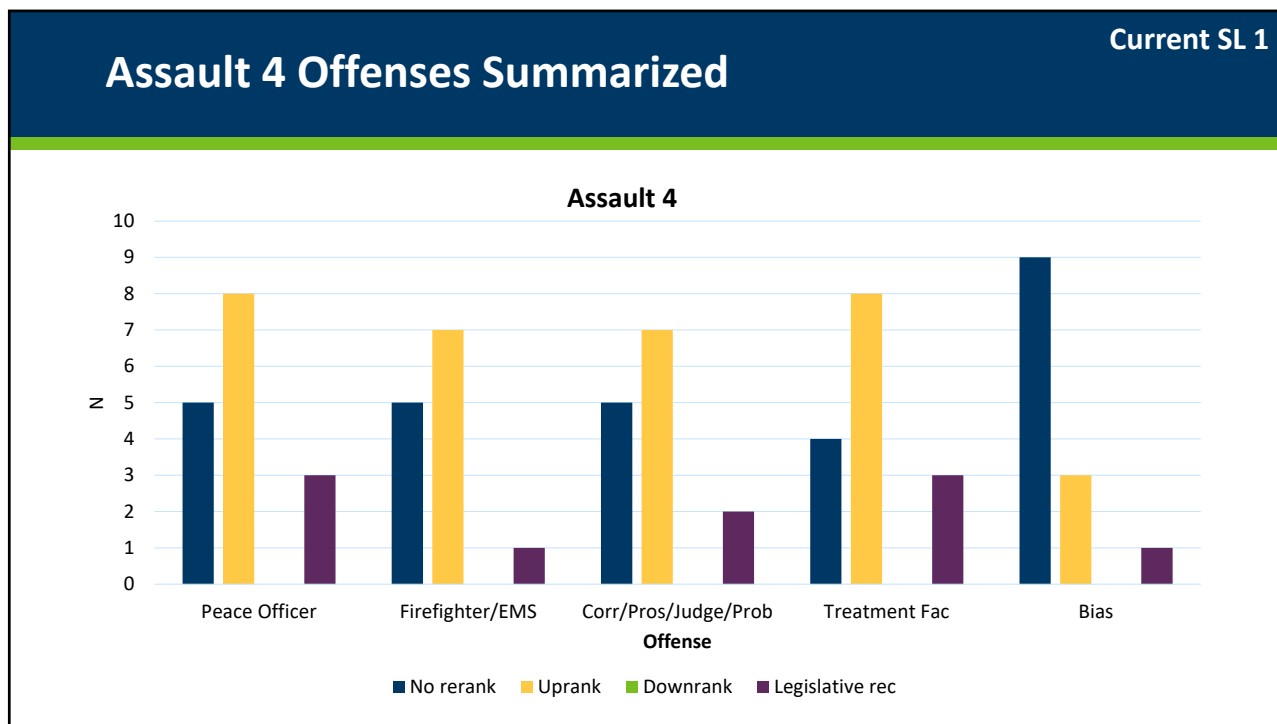
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Assault 3 – Victim Under 4 Years Old				Current SL 4
Reranking Option	N	New SL	Notes	
Do not rerank	8	–	• Similar to pattern of child abuse, appropriately ranked.	
Uprank	2	SL 5	• The vulnerability of the victim justifies the higher ranking even though the harm may be less than the harm for the offense in subd. 1. • This is a particularly egregious and despicable form of assault which implicated serious public safety concerns.	
	2	SL 6	• Child victim. Stat max.	
Downrank	0	–		
Dispositional line	0	–		
Legislative	1	–	• Case management resources to aid families in meeting basic needs and reducing overall stressors, resources for parenting classes and abuse prevention, and intervention programming focused on parenting.	
Other	0	–		

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Assault 3 – Victim Under 4		Current SL 4
Additional Notes		
<ul style="list-style-type: none"> • Rarely-prosecuted offense so hard to identify typical case. • Notable demographics regarding charges vs incarceration across race, age, and gender. Would be interested to know what sentence women were given vs men as well as breakdown of cases by race. Would suggest parenting and abuse prevention programming as part of sentencing. • Although the data regarding this offense is limited, a higher severity level is warranted due to the particularly egregious and despicable form of assault. 		

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Current SL 1

Assault 4 Offenses: Some Highlights

- There was more interest in increasing the SL of Assault 4 offenses committed towards public safety officials and treatment providers than Assault 4 – Motivated by Bias.
- Those who preferred to increase the SL of public safety official Assault 4 offenses noted the seriousness of the offense, the threat to public safety, and the importance of protecting our public safety officials/providers.
 - Interest in making a recommendation to the legislature to increase the statutory maximum for these offenses was stated.
 - Some viewed bodily fluids as less serious than other forms of Assault 4, especially spitting, and preferred to leave offense of this nature at SL1
- Those who preferred to maintain the SL for public safety official Assault 4 offenses pointed towards the low departure rates, the low stat max, and the infrequent prosecution in some instances.

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Current SL 1

Assault 4 Offenses: Some Highlights

- Those who preferred to maintain the SL of Assault 4 – Motivated by Bias wanted to do so because the offense has very few cases and is rarely prosecuted.
 - Those interested in increasing the SL of this offense wanted to do so because they assumed this offense occurs more often than the cases point elude and to incentivize prosecutors to charge this offense rather than dropping the offense to a lower Assault offense, similar to dropping a domestic to a disorderly conduct.
- Interest in having the legislature define "demonstrable bodily harm" was expressed.

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Current SL 1

Assault 4 – Peace Officers

Reranking option	N	New SL	Notes
Do not rerank	5	–	<ul style="list-style-type: none"> • Departure rates are not high. • Not seeing a departure rate or basis to assume that this ranking is unfair.
Uprank	4	SL 2	<ul style="list-style-type: none"> • Upranking to SL 2 makes it seem a little more serious, which I believe this offense is. • Only uprank 1(c)(1) where the assault results in demonstrable bodily harm.
	2	SL 3	<ul style="list-style-type: none"> • This is a serious public safety offense and personnel involved with public safety matters. It is under ranked.
	1	SL 4	<ul style="list-style-type: none"> • Should meet stat max. Increasing assaults. Protect our protectors.
	1	SL 5	
Downrank	0	–	
Dispositional line	0	–	
Legislative	3	–	<ul style="list-style-type: none"> • There needs to be an adjustment for spitting verses other bodily fluids. • Legislature should define "demonstrable bodily harm". • Should be a higher stat max – 3 years is too low. Consider mandatory minimum.
Other	2	–	

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Current SL 1

Assault 4 – Peace Officer

Additional Notes

- It's not uncommon for someone to receive this charge for spitting on officers. Unless they're spitting blood the level of potential harm is not equal.
- Only uprank to SL 2 if demonstrable bodily harm. Most cases with bodily fluids involve a mentally ill person so public safety not affected by higher ranking.
- As assault the results in some level of harm should be taken seriously and should be ranked a little higher. Putting the demonstrable bodily harm offense at SL 2 allows it to still fit on the grid and be in line with other types of harm that might occur. Leave bodily fluids offense at SL 1 because it is less serious behavior and doesn't incur the same type of harm.
- Given threats to law enforcement, as exemplified by the shootings in Burnsville last year, a higher ranking would better serve public safety. Legislature should reconsider the stat max and consider the imposition of a mandatory minimum sentence.
- Would like to learn more about what motivated the original ranking.

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Current SL 1

Assault 4 – Firefighters/EMS

Reranking option	N	New SL	Notes
Do not rerank	5	–	<ul style="list-style-type: none"> Rarely prosecuted offense so hard to identify typical case, especially for presumptive commits. Low stat max. Misdemeanor level assault, now a felony because of victim, which considers public safety concerns. Not seeing a departure rate or basis to assume that this ranking is unfair.
Uprank	4	SL 2	<ul style="list-style-type: none"> Treat public safety professional similarly. Up rank this offense. An assault that results in some level of harm should be taken seriously and should be ranked a little higher.
	1	SL 3	<ul style="list-style-type: none"> This offense appears to be under ranked and should move to SL 3.
	1	SL 4	<ul style="list-style-type: none"> Emergency personnel are only onsite to help. Anyone interfering with that needs to be held to a high level of accountability.
	1	SL 6	<ul style="list-style-type: none"> Emergency personnel are there to help and technically have no way to defend themselves.
Downrank	0	–	
Dispositional line	0	–	
Legislative	1	–	<ul style="list-style-type: none"> Increase statutory maximum, 2 years is too low. Consider mandatory minimum sentence.
Other	0	–	

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Current SL 1

Assault 4 – Firefighter/EMS

Additional Notes

- This is a serious public safety offense and personnel involved with public safety matter.
- Putting the demonstrable bodily harm offense at SL2 allows it to still fit on the grid and be in line with other types of harm that might occur.
- Would like to know more about what motivated the original ranking.
- Given threats to law enforcement and first responders, as exemplified by the shootings in Burnsville last year, a higher ranking would better serve public safety.
- I might be a little biased on this one. We (firefighters/EMS) get assaulted on a very regular basis. A week and a half ago my partner took a jab to the jaw by an 18-year-old kid. If we feel it is bad enough to report, it should be taken seriously. We are only here to help and technically have no way to defend ourselves. We also fear we might lose our job if we defend ourselves.

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Current SL 1

Assault 4 – Corr/Prosec/Judge/Prob

Reranking option	N	New SL	Notes
Do not rerank	5	–	• Departure rates are not high.
Uprank	4	SL 2	• Public safety officials should be treated the same as other public officials. • As assault that results in some level of harm should be taken seriously and should be ranked a little higher. • We must protect the CJ system and those involved. Stat max.
	2	SL 3	• This offense appears to be under ranked and is most appropriate to move to SL 3. • Given the increasing threats to judicial officers, a higher ranking would better serve public safety.
	1	SL 6	• Emergency personnel are there to help and technically have no way to defend themselves.
Downrank	0	–	
Dispositional line	0	–	
Legislative	2	–	• Legislature should define "demonstrable bodily harm". • Consider mandatory minimum sentence.
Other	1	–	• Only uprank subd. 3(1) relating to demonstrable bodily harm.

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Current SL 1

Assault 4 – Corr/Prosec/Judge/Prob

Additional Notes

- This is a serious public safety offense and personnel involved with public safety matter.
- Should reconsider spit versus other bodily fluids that have the potential for greater harm.
- Low stat max. Commit is mandatory for inmates. Felony level offense takes public safety into account.
- Putting the demonstrable bodily harm offense at SL 2 allows it to still fit on the grid and be in line with other types of harm that might occur. Leave the bodily fluids offense at SL 1 because it is less serious behavior and doesn't incur that same type of harm.
- I might be a little biased on this one. We (firefighters/EMS) get assaulted on a very regular basis. A week and a half ago my partner took a jab to the jaw by an 18-year-old kid. If we feel it is bad enough to report, it should be taken seriously. We are only here to help and technically have no way to defend ourselves. We also fear we might lose our job if we defend ourselves.

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Current SL 1

Assault 4 – Secure Treatment Facility

Reranking option	N	New SL	Notes
Do not rerank	4	–	<ul style="list-style-type: none"> Rarely prosecuted offense so hard to identify typical case especially for presumptive commits. Low stat max. Mental health issues in most cases.
Uprank	4	SL 2	<ul style="list-style-type: none"> Upranked because the individual committing the crime is in a position of power over the victim. Should be treated the same as public safety officials. An assault that results in some level of harm should be taken seriously and should be ranked higher.
	2	SL 3	<ul style="list-style-type: none"> This offense appears to be under ranked and should move to a SL 3. Halfway houses and non secure treatment facilities often serve some of the most dangerous offenders without any extra protection from the law for acts or threats of violence.
	1	SL 6	
Downrank	0	–	
Dispositional line	0	–	
Legislative	3	–	<ul style="list-style-type: none"> Should also include halfway house staff and non-secured facility treatment staff. Legislature should define "demonstrable bodily harm". Increase statutory max and add a mandatory minimum sentence.
Other	1	–	<ul style="list-style-type: none"> Only uprank subdivision 3a(b)(1) relating to demonstrable bodily harm.

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Assault 4 – Secure Treatment Facility

Current SL 1

Additional Notes

- St. Peter and MSOP facilities have most cases. Higher SL won't make difference given the offending person's situation.
- Putting the demonstrable bodily harm offense at SL 2 allows it to still fit on the grid and be in line with other types of harm that might occur. Leave bodily fluids offense at SL 1 because it is less serious behavior and doesn't incur the same type of harm.
- Given the murder of a correctional officer at MCF-STW within the last few years, and other reports of assaults against staff as secured facilities, the statutory maximum for this sentence should be increased and the legislature should consider mandatory minimum sentencing.

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Assault 4 – Bias

Current SL 1

Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> No cases. Stat max is 1 year. No cases. Seems appropriately ranked and given the lack of data, I am reluctant to recommend much in the way of change.
Uprank	2	SL 2	<ul style="list-style-type: none"> I think this probably occurs much more often than is represented. With an uprank maybe this charge would be pursued more often. Definition constrained as mentioned by stat max. Should be ranked higher.
	1	SL 3	<ul style="list-style-type: none"> Like domestic violence crimes, there is a power and control dynamic and an intentionality at play that needs to be considered.
Downrank	0	–	
Dispositional line	0	–	
Legislative	1	–	<ul style="list-style-type: none"> Legislature may want to revisit this offense.
Other	0	–	

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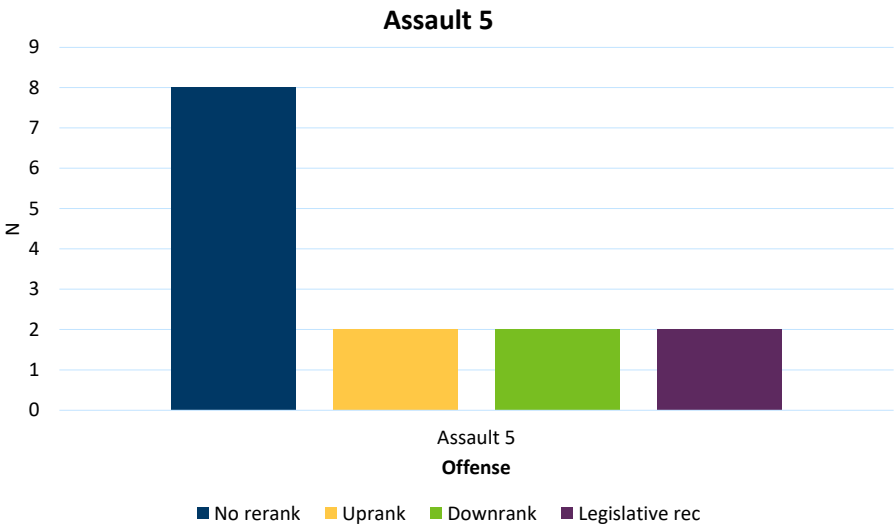
Assault 4 – Bias Current SL 1

Additional Notes

- Is the offense rarely committed or rarely charged and convicted as such? My observation is that the crime is committed often but just not applied/charged. Rather cases are charged as an assault (similar to dropping a domestic down to a disorderly conduct – it removes a vital element of the crime and therefore the associated sentence).
- The statutory maximum penalty limits what we can do in ranking it. This seems like a serious offense because it is repeated conduct based solely on the person's bias. However, no level of harm is required to be proven, so my guess is that if the assault is more serious, it will be charged under one of the more general statutes. The Legislature may wish to reconsider whether a stronger statement about this behavior is warranted.

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Assault 5 – 3rd or Subsequent Violation Summarized Current SL 4



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Current SL 4

Assault 5 Offenses: Some Highlights

- General agreement to maintain the current SL of 4 for this offense..
 - Multiple comments suggested that the concerns about Assault 5 having the same SL as Assault 3 offenses could be alleviated by increasing the SL of the Assault 3 offenses.
- Many voiced interest in providing different SLs depending on the type of assault committed, but others suggested this would add complexity and confusion to the Guidelines.
- Those who were interested in increasing the SL of this offense mentioned the stat max as the reason for ranking at a higher level.
- Those interested in ranking to a lower SL pointed out the high durational departure rate and curiosity about the relationship between this high rate and the offense being committed against the same victim multiple times.

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Current SL 4

Assault 5

Reranking option	N	New SL	Notes
Do not rerank	8	–	
Uprank	1	SL 5	
	1	SL 6	<ul style="list-style-type: none"> • Stat max.
Downrank	2	SL 3	<ul style="list-style-type: none"> • Durational departure rate is high. This might suggest that judges view the prior record element of this crime as double-counting given the effect of criminal history on guidelines recommended durations.
Dispositional line	0	–	
Legislative	2	–	<ul style="list-style-type: none"> • There should be distinctions between fear, attempt, and actual physical harm. • Make distinctions between fear, attempted bodily harm, and inflicting bodily harm.
Other	1	–	

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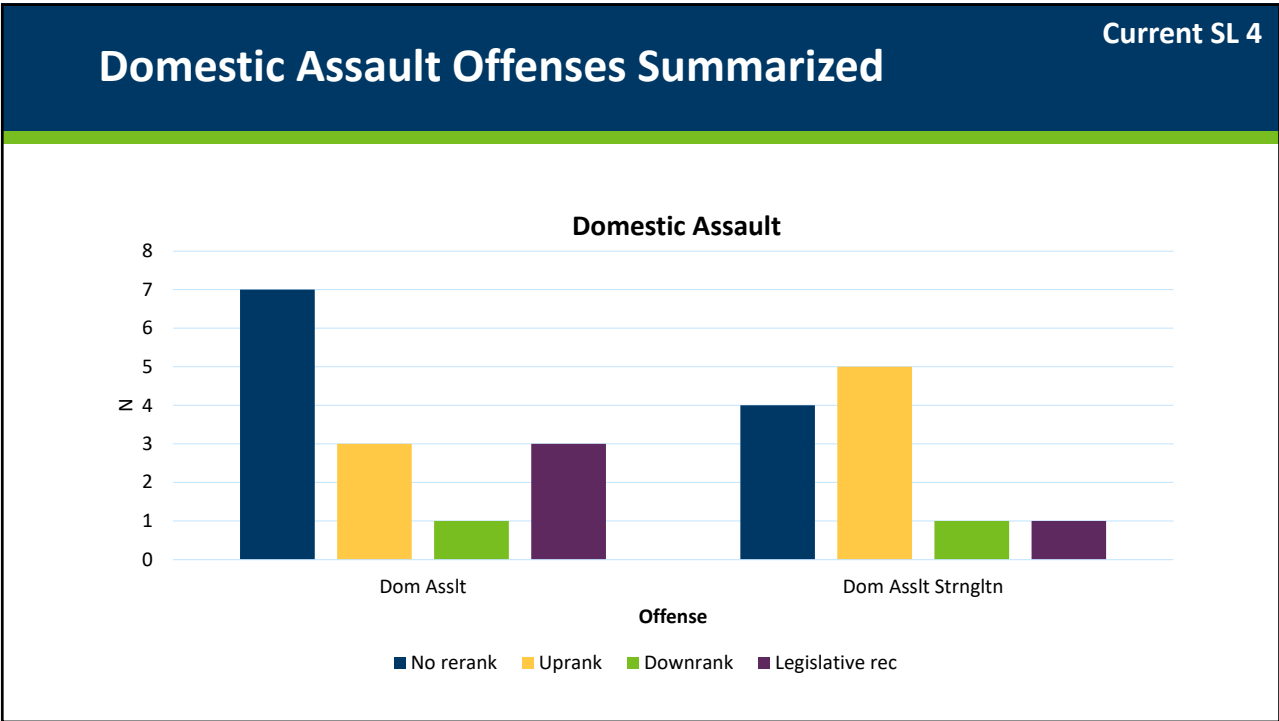
Current SL 4

Assault 5

Additional Notes

- It would be good to discuss nuances to cases and different types of harm (fear, threats, inflicting bodily harm).
- There should be distinctions between fear, attempt, and actual physical harm. Physical harm and attempted physical harm should be held to a higher level of accountability than fear.
- Same state max as other SL 4 offenses. Given multiple opportunities for change. If increase Assault 3 to SL 5 then SL 4 first. Fear assault is much different than infliction of bodily harm so ranking them the same does not make sense.
- No harm is required to be proven, but this offense is a felony because of repeat behavior against the same victim. For that reason, SL 4 seems appropriate.
- Keep this offense ranked where it is and address disparity with Assault 3 by upranking Assault 3. Don't differentiate between differing types of assault, that would introduce more complexity into the guidelines.

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Current SL 4

Domestic Assault Offenses: Some Highlights

- There was more interest in increasing the SL for Domestic Assault – Strangulation than Domestic Assault.
- Those interested in maintaining the SL of Domestic Assault preferred to increase the SL of Assault 3 rather than increase these offenses to deal with the disparity.
- For Domestic Assault, there was interest in distinguishing between the types of assault (i.e., fear, attempt harm, inflict harm), although others felt that actions that inflict fear can be just as detrimental to the victim as one that inflicts bodily harm.
- Because Domestic Assault – Strangulation has a lethality element to it, there was more interest in increasing the SL.

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Current SL 4

Domestic Assault

Reranking option	N	New SL	Notes
Do not rerank	7	–	<ul style="list-style-type: none"> • Multiple convictions for DA is as severe as an assault resulting in substantial bodily harm. Safety and security loss takes a tremendous toll on the victim. Keep ranking.
Uprank	2	SL 5	<ul style="list-style-type: none"> • This offense is under ranked for many reasons including that it takes at least 6 convictions for a domestic abuser to get a presumptive commit sentence. • This is a serious offense and this version of it is a repeat of this or similar behavior.
	1	SL 6	<ul style="list-style-type: none"> • Stat max.
Downrank	1	SL 3	<ul style="list-style-type: none"> • Dispositional departure rate is not higher than average but durational rate is. That might suggest that judges view the prior record element of this crime as double-counting given the effect of criminal history on guidelines recommended durations.
Dispositional line	0	–	
Legislative	3	–	<ul style="list-style-type: none"> • There should be distinctions between fear, attempt, and actual physical harm. Attempted physical harm and physical harm should be held to a higher level of accountability than fear. • Make distinctions between 3 types of assault. • Increase supports to victim services to support victim engagement in prosecution.
Other	1	–	<ul style="list-style-type: none"> • Fear/attempt/inflicting harm

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Current SL 4

Domestic Assault

Additional Notes

- The downward dispositional departure seemed to be focused on victim engagement in prosecution and the impact of engagement on the successful outcome of the case. With increased resources to support victims with basic needs and higher touch points with victims to provide emotional support throughout the process, victims may feel more empowered to engage in the judicial process, resulting in the use of the guidelines as outlined. Also recommend addition of restorative justice process. Would like to look at possibility of creating separate grid for domestic violence crimes to account for nuances. This would be another way to explore differences between instilling fear, threat of injury, and inflicting bodily harm.
- It takes two prior convictions for the offense to be enhanced to a felony and then not until 4 CH points are reached is prison a reality - these cases are scary and often go unreported so when they finally are reported, this is not the first time the victim has been abused. Some other options that would take legislative action to address this under ranked offense would be to treat repeat felony domestic assault offenders similar to repeat felony DWI offenders. For example, an offender who has previously been convicted of a felony level domestic assault offense is a presumptive commit.
- Deal with disparity with Assault 3 by upranking Assault 3, not changing this offense.
- Interest in hearing more about whether staff believes this should be ranked differently.

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Current SL 4

Domestic Assault by Strangulation

Reranking option	N	New SL	Notes
Do not rerank	4	-	<ul style="list-style-type: none"> About average departure rates.
Uprank	3	SL 5	<ul style="list-style-type: none"> This is a serious domestic assault. There are extraordinary serious public safety concerns associated with strangulation.
	1	SL 6	<ul style="list-style-type: none"> Strangulation is a lethality risk factor and has major impacts on victim health and safety.
	1	SL 7	
Downrank	1	SL 3	<ul style="list-style-type: none"> Fairly high departure rate. Lower stat max than other SL 4 offenses so not considered as severe by legislature.
Dispositional line	0	-	
Legislative	1	-	<ul style="list-style-type: none"> Requirement to attend and successfully complete Abuse Prevention and Intervention Program and funds to support such programs if making this a requirement.
Other	0	-	

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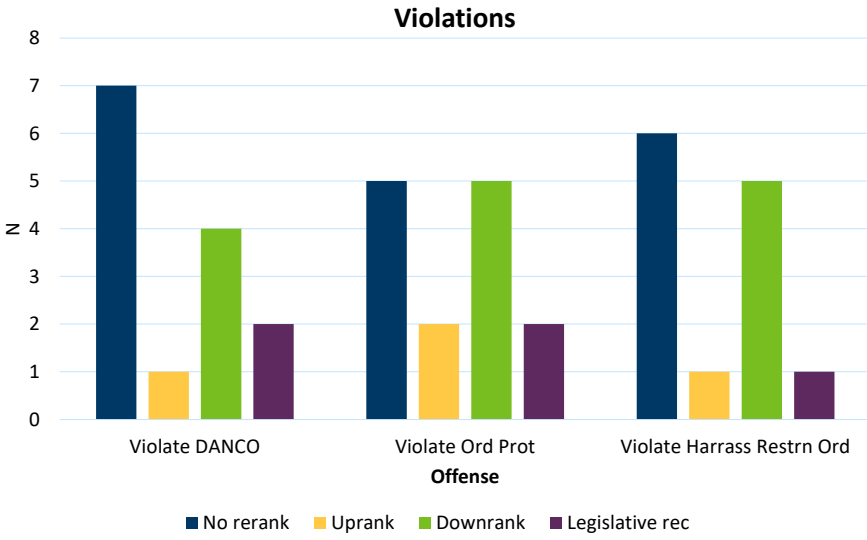
Domestic Assault by Strangulation Current SL 4

Additional Notes

- Domestic Assault by Strangulation is a serious domestic assault. For example, if the strangulation is completed/accomplished, it's a homicide. To have an offense that is literally an attempted murder ranked at a SL 4 and to have a stat max of 3 years is shocking. The stat max for this offense needs to be changed by the legislature.
- Unlike domestic assault, this may be a first-time offense. Current ranking balances that fact with the seriousness of the behavior.
- This charge should be ranked consistently with Assault 3/Substantial Bodily Harm. Serious public safety concerns associated with strangulation. It can be a precursor to loss of consciousness, which is Assault 3, and can result in great bodily harm (Assault 1) or domestic assault/homicide.

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Protective Order Violation Offenses Summarized Current SL 4



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Current SL 4

Protective Order Violation Offenses: Some Highlights

- There was a recognizable split between interest in maintaining the SL of these offenses and decreasing the SL to lower levels.
- Proportionality concerns between Assault 3 and these offenses were thought to be able to be addressed by increasing the SL for Assault 3 rather than these offenses.
- Adding legislatively mandated services for those impacted by Protective Order Offenses was suggested.

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Current SL 4

Violate DANCO

Reranking option	N	New SL	Notes
Do not rerank	7	–	
Uprank	1	SL 6	• Stat mx. Precursor to stalking/domestic homicide.
Downrank	1	SL 2	
	3	SL 3	<ul style="list-style-type: none"> • Dispositional departure rate is not higher than average, but the durational rate is. That might suggest that judges view the prior record element of this crime as double-counting given the effect of criminal history on guidelines recommended duration. • This offense is a violation of a court order (like contempt) and should be ranked less severe than a domestic assault.
Dispositional line	0	–	
Legislative	2	–	<ul style="list-style-type: none"> • Add case management services to DV resources to support aiding families with addressing basic needs in order to mitigate violations due to this challenge. • Assault with 2 priors more serious than DANCO with 2 priors, however, the DANCO violations are not treated seriously enough. Perhaps a shorter time frame for priors (2 in a year).
Other	1	–	• Downrank only subd.2(d)(1) where the violation does not involve a firearm.

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Current SL 4

Violate DANCO

Additional Notes

- Need to consider that low SES can impact violations due to lack of resources (sharing a vehicle and needing to get to work, figuring out childcare, housing and homelessness, etc). Domestic violence often results in social isolation for both parties and can result in a lack of social support to provide aid if an DANCO is in place, creating challenges to adhering to DANCO. Many victims and offenders do not fully understand the tenants of the DANCO and need support from advocates to understand, and problem solve barriers to adhere to it. DANCO's might also be ordered by the court buy not be something that was requested by the victim (for reasons listed above, in example).
- It make sense to me to split these violations out so that the violation involving a dangerous weapon is ranked at SL 4 and the regular version of this offense is ranked at SL 3. Bringing a weapon escalates the seriousness of the behavior because it indicates potential intent to do harm and also creates a greater chance that harm will result.
- Stat max is same as other SL 4 but medium departure rates. Includes very broad factual situations.
- The increasing concerns regarding compliance with court orders are real and argue against downranking this offense. Violating a DANCO with two priors does implicate serious public safety concerns which are arguably more significant than committing a misdemeanor assault with two priors in some instances.

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Current SL 4

Violate Order for Protection

Reranking option	N	New SL	Notes
Do not rerank	5	–	<ul style="list-style-type: none"> Keep all domestic assault matters at SL 4.
Uprank	1	SL 5	<ul style="list-style-type: none"> OFP violations are a risk factor for lethality.
	1	SL 6	<ul style="list-style-type: none"> Stat max.
Downrank	5	SL 3	<ul style="list-style-type: none"> Durational departure rate is higher than average which might suggest that judges view the prior record element of this crime as double-counting given the effect of criminal history on guidelines recommended durations. Offense is not as sever as Assault 3 or domestic assault. This is different than a DANCO violation in that a judge found case to order.
Dispositional line	0	–	
Legislative	2	–	<ul style="list-style-type: none"> Add case management services to DV resources to support aiding families with addressing basic needs in order to mitigate violations due to this challenge. Shorter time frame for priors.
Other	1	–	<ul style="list-style-type: none"> Downrank only subd.14(d)(1) not involving a dangerous weapon.

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Current SL 4

Violate Order for Protection

Additional Notes

- Need to consider that low social economic status can impact violations due to lack of resources (sharing a vehicle and needing to get to work, figuring out childcare, housing, and homelessness, etc.). Domestic violence often results in social isolation for both parties and can result in a lack of social support to provide aid if an OHP is in place, creating challenges to adhering to OFP. Many victims and offenders do not fully understand the tenants of the OFP and need support from advocates to understand, and problem solve barriers to adhere to it.
- Very broad factual situation.
- It makes sense to split these violations out so that the violation involving a dangerous weapon is ranked at SL 4 and the regular version of this offense is ranked at SL 3. Brining a weapon escalates the seriousness of the behavior because it indicated potential intent to do harm and also creates a greater chance that harm will result.
- Violating a OFP with two priors does implicate serious public safety concerns which are arguably more significant than committing a misdemeanor assault with two priors in some instances.

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Current SL 4

Violate Harassment Restraining Order

Reranking option	N	New SL	Notes
Do not rerank	6	–	
Uprank	1	SL 6	<ul style="list-style-type: none"> Stat max.
Downrank	5	SL 3	<ul style="list-style-type: none"> Dispositional departure rate is higher than average which might suggest that judges view the prior record element of this crime as double-counting given the effect of criminal history on guidelines recommended durations. Not as severe as other level 4 offenses. Not as close a relationship between defendant and victim as the level 4 domestic charges. High departure rate. Very broad factual basis. Not as severe as Assault 3 or Domestic Assault.
Dispositional line	0	–	
Legislative	0	–	
Other	1	–	<ul style="list-style-type: none"> Downrank all but subd.6(d)(4) and (5).

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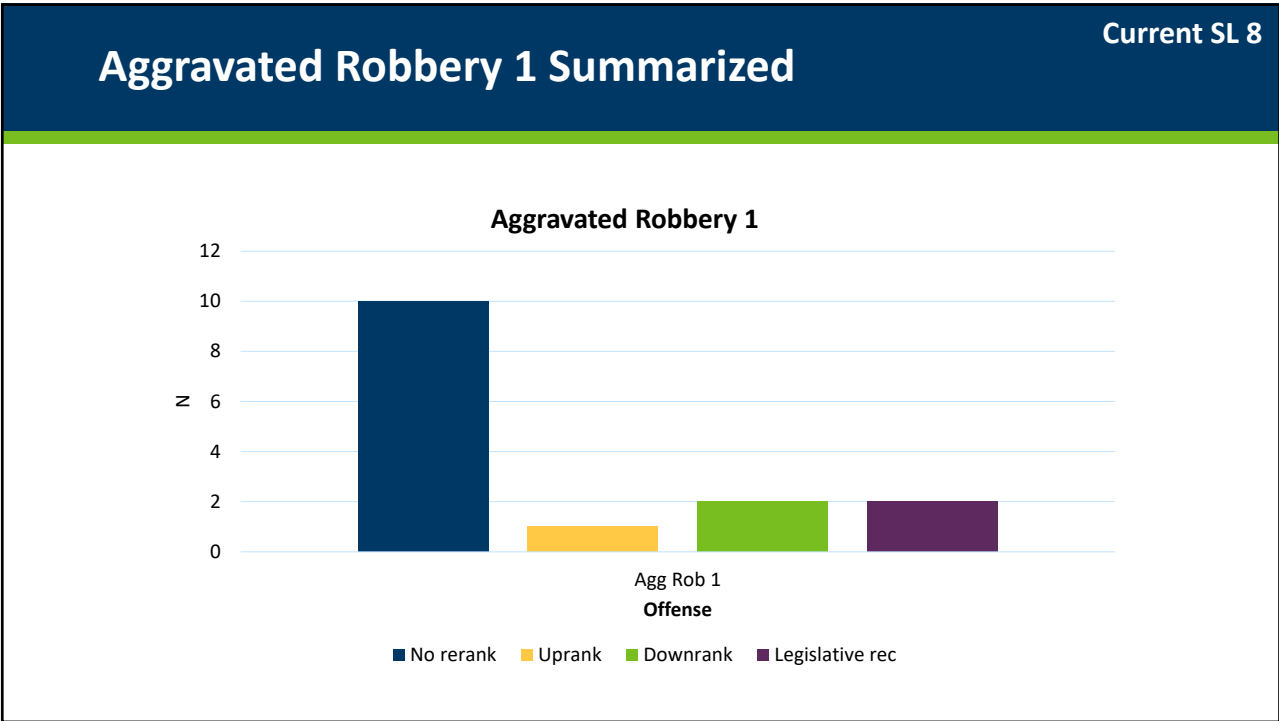
Current SL 4

Violate Harassment Restraining Order

Additional Notes

- The violations involving a weapon and tampering with a jury or judicial processing seem more serious than the other violations.
- Increasing concerns regarding compliance with court orders are real and argue against downranking this offense. Violating a HRO with two priors can in some instances implicate serious public safety concerns which are arguably more significant than committing a misdemeanor assault with two priors in some instances.

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Current SL 8

Aggravated Robbery 1: Some Highlights

- Most agreed that this offense should not be reranked.
- While many noted that the racial and age demographics of this offense are notable, most believed they should not be considered in the ranking of the offense.
- Some suggestions for this offense included eliminating the mandatory minimum for first time offenses, creating a border box for SL 8/CHS 0, and considering ranking the offense differently depending on the type of robbery (robbery with a gun in more severe than bodily harm).

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Current SL 8

Aggravated Robbery 1

Reranking option	N	New SL	Notes
Do not rerank	10	–	• Appropriately ranked. Serious offense when personal property is taken by threat of harm with a weapon. Justifiable.
Uprank	1	SL 10	• Stat max.
Downrank	2	SL 7	
Dispositional line	0	–	
Legislative	2	–	• Consider requiring substantial harm, in no-weapon cases. • Eliminate mandatory minimum, especially for first-time offense.
Other	3	–	• Add GTZ mitigating factor; maybe also youth in a group. • Add boarder box for first-time offense to allow for probation. Rank subdivisions differently. • Could potentially add a border box rule at CHS 0 allowing a stayed sentence without a departure if there was no or only minor harm or no weapon used.

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Current SL 8

Aggravated Robbery 1**Additional Notes**

- Greatly above average durational departure rates; also, greatly above average dispositional departure rates in GTZ cases. But robbery with a dangerous weapon or believed weapon is a terrifying experience, justifying high severity ranking in the absence of mitigating factors such as GTZ. Absent such a weapon, however, the bodily-harm cases seem much less serious; to make them equivalent to the weapon cases, the degree of required harm should be greater.
- Racial and age demographics are notable – further discussion and research into decision making around these cases, bias around sentencing, etc., would be helpful to look at. Would also like to see what the correlation is between aggravated robbery 1 and risk of lethality. This is another space where restorative justice could be a useful addition to sentencing practices. This crime is approximately 4 levels higher than all the domestic related charges and most of the assault charges, including domestic assault by strangulation which has a direct correlation to risk of lethality.
- High departure rates, especially with no weapon and the mandatory minimum. Offense covers very broad factual situations. Rank differently depending on the type – robbery with a gun is more severe than bodily harm.
- Border box rationale is based on Dr. Laskorunsky's findings.
- Demographic profile info should not be considered in the SL.

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Current SL 8

Aggravated Robbery 1**Additional Notes**

- This offense does seem to often encompass crimes of poverty, and prosecutors might overcharge this offense. The departure rate seems significant. Would like to learn more about that.
- We must not "normalize" this as any demographic. Foundation of "public safety" would be to punish this act as well as assaults.
- The demographic profile of this offense is unique, and alarming, however, I don't believe the commission can consider that in its ranking decision. The legislature has defined the commission's mission regarding proposed modifications of the Guidelines as follows: "In establishing and modifying the Sentencing Guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider current sentencing and release practices; and the long-term negative impact of the crime on the community." The public safety considerations with armed robbery are very self-evident, and the long-term impact of these offenses on the community is a serious consideration.

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