

## Re-ranking Topic Details

### 1. Intimidating a Judge – add to Crime Against Person

While reviewing offenses in the Class B committee, members agreed that three intimidation offenses should be treated the same. Upon review, it was noted that Intimidation of a Juror and Intimidation of a Witness are both classified as a crime against a person, but Intimidation of a Judge is not.

Both the committee and the full SGC were surprised by this discrepancy and discussed the need to ensure that Intimidation of a Judge is treated similarly and added to the list of crimes against persons. During the discussion, members were unable to think of any reason to treat Intimidation of a Judge differently from Intimidation of a Juror or Witness.<sup>1</sup>

### 2. Indecent Liberties without Forcible Compulsion (RCW 9A.44.100(d-f) – offense parity

During the SOPB's discussion of the ranked version of Indecent Liberties without Forcible Compulsion, it was noted that there is also an unranked version of this offense. The SOPB members thought that the subsections of this statute should not be treated differently: both the ranked and unranked offenses are about sexual intercourse with a related victim and an abuse of power in absence of consent and both should be similarly ranked. It was noted that when the victim is under 14, this offense becomes a sexually violent offense under Chapter 71.09 RCW. When the SGC conducted its review of unranked offenses, it only looked at unranked offenses and did not compare them to ranked offenses. Had it had time for a full comparison, the SGC likely would have come to the same conclusion as the SOPB and recommend that RCW 9A.44.100(1)(d-f) be ranked similarly to RCW 9A.44.100(1)(b-c).<sup>2</sup>

RCW	Offense	Class	Proposed SL
9A.44.100(1)(a)	Indecent Liberties - with Forcible Compulsion	A	12
9A.44.100(1)(b-c)	Indecent Liberties (without Forcible Compulsion)	B	7
9A.44.100(1)(d-f)	Indecent Liberties (without Forcible Compulsion)	B	Unranked

RCW 9A.44.100

Indecent liberties.

(1) A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who:

<sup>1</sup> Ibid. (page 27)

<sup>2</sup> Ibid. (page 29)

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(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or substance use disorder and the perpetrator is a person who has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

[ 2023 c 470 § 3009; 2021 c 142 § 10; 2013 c 94 § 2; 2007 c 20 § 2; 2003 c 53 § 67; 2001 2nd sp.s. c 12 § 359; 1997 c 392 § 515; 1993 c 477 § 3; 1988 c 146 § 2; 1988 c 145 § 10; 1986 c 131 § 1; 1975 1st ex.s. c 260 § 9A.88.100. Formerly RCW 9A.88.100.]

### 3. Vehicle Prowl 1 and Residential Burglary – offense parity

There was discussion about the similarities between Vehicle Prowl 160 and Residential Burglary. A person is guilty of Vehicle Prowl 1 if they enter/remain unlawfully in a motor home or vessel with sleeping quarters or cooking facilities. A person is guilty of Residential Burglary if they enter/remain unlawfully in a dwelling other than a vehicle. Vehicle Prowl 1 is a class C offense ranked at seriousness level 1 while Residential Burglary is a class B offense ranked at seriousness level 4. While the type of domain differs, the behavior is the same. Many people live in motor homes, and those who do may be more likely to have a lower socioeconomic status, compounding the effects of victimization. Members believed that more consideration should be given to whether Vehicle Prowl 1 should comport with Residential Burglary.<sup>3</sup>

Offense	Class	Proposed SL
Residential Burglary	B	5
Vehicle Prowl 1	C	2

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<sup>3</sup> Ibid. (page 29)

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RCW 9A.52.095

Vehicle prowling in the first degree.

(1) A person is guilty of vehicle prowling in the first degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a motor home, as defined in RCW 46.04.305, or in a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

(2) Vehicle prowling in the first degree is a class C felony.

[ 2011 c 336 § 375; 1982 1st ex.s. c 47 § 13.]

RCW 9A.52.025

Residential burglary.

(1) A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle.

(2) Residential burglary is a class B felony. In establishing sentencing guidelines and disposition standards, residential burglary is to be considered a more serious offense than second degree burglary.

[ 2011 1st sp.s. c 40 § 38; 1989 2nd ex.s. c 1 § 1; 1989 c 412 § 1.]