



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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**SENTENCING GUIDELINES COMMISSION  
MINUTES**

**July 13, 2018 9:00am – 12:00pm**

Washington Association of Sheriffs and Police Chiefs  
3060 Willamette Dr NE  
Lacey, WA 98516

Members Present:

Greg Link  
Kecia Rongen  
Jennifer Albright  
Sheriff Paul Pastor  
Maia McCoy  
Stephen Sinclair  
Marybeth Queral (proxy Kathleen Harvey)  
Senator Jeannie Darnielle  
Phillip Lemley  
Hon. Catherine Shaffer  
Michael Fenton  
Hon. Roger Rogoff  
Russ Hauge  
Jon Tunheim  
Tony Golik  
Kimberly Gordon  
Hon. Stanley Rumbaugh  
Tim Wettack  
Sonja Hallum  
Judge William Houser, SCJA

Members Absent:

Rep. Brad Klippert  
Rep. Eric Pettigrew  
Senator Mike Padden

Staff:

Keri-Anne Jetzer

Guests:

Ed Vukich, CFC  
Clela Steelhammer, DOC  
Felix D'Allesandro, Prison Voices WA  
Carol Welch, Prison Voices WA  
Keri Waterland, SCS  
Kevin Black, SCS

**I. CALL TO ORDER**

Chair Hauge called the meeting to order. He asked Keri-Anne to brief members on the materials in the packet.

## **II. APPROVAL OF MINUTES**

The Commission is asked to approve the minutes from June 2018

### **MOTION #18-14: MOTION TO APPROVE MEETING MINUTES FROM JUNE 2018 WITH AMENDMENT**

**MOVED:** Phillip Lemley  
**SECONDED:** Tony Golik  
**PASSED:** Unanimous

Amendment: At the top of page 6 it states that members agreed on the concept of the sentencing proposal that had been discussed. Rather, it should reflect that members agreed to continue to investigate the concept. No formal or informal agreement was made to support the proposal at the meeting.

## **III. REPORT FROM LFO WORK GROUP**

Keri-Anne reported that Judge Shaffer contacted the Minority and Justice Commission (MJC), who is also working on LFO issues, about the work of the LFO work group. The MJC sent a letter to offer their support of the recommendations from the LFO work group.

Chair Hauge suggested that the SGC contact the MJC to see if there is a way to combine efforts. As a former member of the MJC, he offered to contact the MJC to this end. Members support this effort.

## **IV. REPORT FROM POST-CONVICTION REVIEW WORK GROUP**

Keri-Anne briefed members on the materials provided and Judge Rumbaugh described the discussions of the work group, the decisions they made and why. In short, they decided the ISRB should have the review process authority, no offenses should be excluded from eligibility to the review process, and that incarcerated individuals should be eligible to apply for the review process after serving 15 years of their sentence.

There was discussion about the ISRB receiving this responsibility and about the idea of adding a judicial member to the review panel. Kecia Rongen informed members on the ISRB's process of reviewing individuals, the mechanisms for soliciting victim input, and of the ISRB members' backgrounds.

Members discussed the 15 year eligibility time. Chair Hauge commented that one of the reasons for the SRA is that people who committed murder were only serving 14 years before being released on parole. Some were concerned whether the level of community supervision is adequate for such a review process.

Members also talked about whether there would be enough programming available for individuals who would be eligible for this process. Secretary Sinclair said that DOC has a robust programming environment, but that there is always room for improvement, which will take continued investment.

Tony Golik reiterated that the Prosecutor's Association has voiced support for a more robust Clemency Board as the authority for such a review as it also has an elected official making the ultimate release decision, which they feel provides accountability for the release decisions.

Chair Hauge told members about some data related to incarceration rates that Tim Wettack had presented to the Small Group meeting. Tim briefed members on that information.

Judge Shaffer suggested the Commission consider this kind of process as part of the overall review of the SRA instead of a stand-alone change.

Senator Darneille asked members to remember to keep racial disproportionality in mind when working on these issues.

Judge Rogoff commented that truth in sentencing was one of the main drivers behind determinate sentencing. He went on to say that the original sentencing judge was balancing several aspects, only one of which was potential for rehabilitation, while a post-conviction review board would be looking specifically at whether rehabilitation had occurred.

**MOTION #18-15: MOTION TO TABLE DISCUSSION ON THE POST-CONVICTION REVIEW PROCESS**

**MOVED:** Tim Wettack  
**SECONDED:** Sheriff Pastor  
**PASSED:** Unanimous

**V. REPORT FROM SMALL GROUP MEETING**

Chair Hauge informed members about the most recent Small Group meeting. He feels that the use of these small group meetings is refining the larger discussions to more concrete proposals, thereby placing the Commission closer to making decisions about what the final work product is going to look like.

He briefed members on the Small Group's discussion of mandatory minimums. Members of the group were interested in removing mandatory minimums and mandatory consecutives. During that meeting, David Boerner had said that one of the primary points of the SRA was to get away from mandatory minimums and mandatory consecutives other than what is

specified in the sentencing grid. Tony Golik inquired if this included mandatory minimums for Murder 1 and mandatory consecutives for two Rape offenses, for example. Chair Hauge said those were not included, that the group was talking about are things like firearm enhancements or 3-strikes.

Jon Tunheim noted that there are other enhancements that may be handled in a better way but since many communities are still being ravaged by gun violence the firearm enhancement may still need to be maintained. Judge Houser agreed and said that the firearm enhancements should still exist in a way that would let the judge increase the sentence if the individual used a firearm. Greg Link thought that while they are still needed, there may be a better way to employ them.

Jon noted that the stacking issue is something that needs to be addressed. He said WAPA is on record supporting a change to consecutive stacking, essentially what the court has already done.

Keri-Anne reported that in her search of the literature she wasn't able to find studies that analyzed the impact of mandatory minimums but instead found articles listing reasons to support or oppose it. One of the reasons supporting mandatory minimums was its impact on incarceration rates. She investigated that avenue and found several in depth studies on the impacts of the incarceration rate on the crime rate, including one from WSIPP.

Chair Hauge asked Tony Golik to explain to members the proposal he distributed to members. Tony reported that, after distributing the proposed grids from last month's meeting to WAPA, they were very vocal in their opposition to going back to broad judicial discretion. Using residential burglary as an example, he provided some suggested changes to scoring and to broadening of sentence ranges. With this proposal, he added that smaller changes might be easier to sell, there wouldn't be any Blakely issues, no litigation trying to figure out what it means, it would continue to provide predictability to DOC and the jails, and it would be easier to determine the cost of the changes.

Responding to the proposed idea of going to Class A, B and C offenses instead of using the current seriousness levels, Tony added that he thought the seriousness levels were well thought out. He gave the example of Murder 2 and Robbery 1 as both Class A offenses. The range for Robbery 1 is 31-41 mos (offender score = 0) while the range for Murder 2 is 123-220 mos (offender score = 0). He advocated to keep the seriousness levels. Chair Hauge said he agrees and that he's been playing around with creating more levels within each classification. Judge Rogoff also agreed with adding levels for the Class A and B felonies but thought that may not be necessary for Class C felonies as there isn't much difference between seriousness levels 1, 2 and 3.

Members discussed how to set up the X axis of a proposed sentencing grid. Should it use A, B and C or keep 1, 2, 3? There was talk about the greater the change to the grid, the more litigation that will happen. Judge Rogoff suggested breaking into two work groups, one working on the proposal created by Chair Hauge and the other working on the proposal brought by Tony, to create their own, well-thought out ideas and present them to the full Commission next month. Tony thought that was a good idea.

Keri-Anne offered to send an email for volunteers for each of the groups and help set up meetings.

**VI. DOC POLICIES**

In prior discussions, Commission members have determined it is of critical importance to get judges more information at the time of sentencing and to rationalize our supervision policies. Science tells us who to supervise and for how long, the benefits of using RNR, and to be swift and certain in reprimands. Should supervision be based on risk and not on offense? Materials from the Justice Reinvestment Initiative will provide insight as to this idea.

Chair Hauge wants members to understand that if the Commission is going to execute these two ideas, pre-sentence investigations and changing the way individuals are supervised to reflect current science, it will cost a lot of money.

**VII. OTHER BUSINESS**

Keri-Anne announced that the August meeting will be at the Tukwila Community Center in Tukwila. She announced that the meeting in the Tri-Cities will be in October. Other details will follow.

**VIII. ADJOURNMENT**

**APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION**

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Russ Hauge, Chair

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Date