



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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**SENTENCING GUIDELINES COMMISSION  
MINUTES**

**November 9, 2018 9:00am – 12:00pm**

Tukwila Community Center  
12424 42<sup>nd</sup> Avenue S Room A  
Tukwila, WA 98168

Members Present:

Greg Link  
Russ Hauge  
Sheriff Paul Pastor  
Stephen Sinclair  
Marybeth Qeral (Kathleen Harvey proxy)  
Phillip Lemley  
Hon. Roger Rogoff  
Tony Golik  
Jennifer Albright  
Kecia Rongen  
Senator Jeannie Darnielle  
Sonja Hallum  
Jon Tunheim  
Tim Wettack  
Judge William Houser

Members Absent:

Rep. Brad Klippert  
Rep. Eric Pettigrew  
Senator Mike Padden  
Michael Fenton  
Maia McCoy  
Kimberly Gordon  
Hon. Stanley Rumbaugh  
Hon. Catherine Shaffer

Staff:

Keri-Anne Jetzer

Guests:

Ed Vukich, CFC; Byron C Coates, Veterans Advocate; Kendra Wynn; Jamie Hawk, ACLU-WA; David Boerner; Katie Hurley, Department of Public Defense; Juliana Row, WSAC

**I. CALL TO ORDER**

Chair Hauge called the meeting to order.

## **II. APPROVAL OF MINUTES**

The Commission was asked to approve the minutes from October 2018

### **MOTION #18-19: MOTION TO APPROVE MEETING MINUTES FROM OCTOBER 2018**

**MOVED:** Phillip Lemley  
**SECONDED:** Tim Wettack  
**PASSED:** Unanimous

## **III. SENATE LAW & JUSTICE COMMITTEE MEETING IN YAKIMA**

Chair Hauge briefed members on the SGC presentation given by himself, Jon Tunheim, Judge Rumbaugh, Greg Link and Judge Rogoff. He asked Senator Darneille, who was also at the meeting, for her comments on the presentation. She replied it was informative and well-received by the other committee members.

When discussing the topics presented, Jon Tunheim suggested that county jail issues need to be a strong consideration. He feels there is a need to focus on county jail offenders and to work at reducing their recidivism which would subsequently reduce the flow into state prisons. Sonja added that diversion programs are a good use of resources.

Jon said that most counties do not have resources to provide any transitional work for people who release from jail. The limited resources that are available are paid for through a county's general fund budget. Sheriff Pastor added that most people spend days in jail not weeks, so any programs or resources would need to take that into consideration.

## **IV. PRESENTING SENTENCING GRIDS**

Chair Hauge wanted to discuss the different grid proposal to solidify an understanding so everyone is on the same pages as to how to explain them and on what is being accomplished by the changes.

Chair Hauge noted a key difference between the Incremental and the New Ground (or Guided Discretion) approaches is that the Incremental approach adopts all the jurisprudence about enhancements, consecutive sentencing, etc., while the Guided Discretion approach eliminates or severely curtails those sentencing components.

Tony Golik said prosecutors are amenable to discussing enhancements, consecutive sentencing, etc., separate from grid discussions. Secretary Sinclair reiterated that DOC's concern is about the complexity and much of which comes in dealing with enhancements, consecutive sentencing, etc. Tony asked which enhancements and what about them are creating complexity for DOC. Alex MacBain explained that from DOC's perspective, problems arise from

the lack of uniformity around enhancements in things such as earned time and consecutive/concurrent status.

Judge Rogoff talked about how similar behaviors are sometimes referred to by different crimes, depending on the location in the state. The Guided Discretion approach makes an attempt to deal with that.

With the upcoming legislative session, Chair Hauge said he expects to be asked to provide updates on the review. He wants to make sure he is appropriately representing the work. He feels that with the current narrow sentencing ranges and changes through legislative action or initiative, movement has been toward to controlling judicial discretion rather than the original concept of guiding judicial discretion. Jon Tunheim countered that he believes the SRA was created to control discretion in response to the perception that there was a lot of inconsistency due to uncontrolled discretion. Jon believes that is the fundamental difference between the Incremental and Guided Discretion proposals. He went on to say the prosecutors still have an interest in having boundaries in that discretion. David Boerner submitted that the legislature of 1980 wanted a system that structured but did not eliminate discretionary decisions affecting sentences. He noted that the original proposal had a set of guidelines for prosecutors since their decisions affect sentences, too. There was more discussion about the points of each of the grid proposals.

While discussing analysis of the two grid proposals, Chair Hauge remarked that the contractor was still working on obtaining some of the data needed for the analyses. Requesting an extension of the due date from May 1 to July 1, 2019 had been mentioned to him. This extension would allow the contractor the time necessary to fully complete the tasks in their contract.

**MOTION #18-20: MOTION TO REQUEST DUE DATE OF SRA REVIEW PRODUCT BE MOVED FROM MAY 1, 2019, TO JULY 1, 2019**

**MOVED:** Tim Wettack  
**SECONDED:** Jennifer Albright  
**PASSED:** Unanimous

Keri-Anne reminded members of the feedback she had received from a few members on suggested changes to the seriousness level ranking/offense classification. Chair Hauge asked members to continue to think about any modifications they would recommend. This topic will be added to the agenda at a later date where members can have a deeper discussion on the topic.

Chair Hauge remarked that his personal preference would be to clean up Assault 2 and Robbery 2 so they don't cover quite so wide a range of conduct. Tony Golik agreed.

**V. REPORT FROM COMMUNITY SUPERVISION WORK GROUP**

Sonja Hallum and Jon Tunheim briefed members on the status of the work group. Jon talked about the gap of supervision and services for people releasing from county jails. Sonja clarified that the group is focusing more on increased support services as opposed to supervision in the traditional sense. Secretary Sinclair mentioned the WSU report funded by the Second Chance grant showed in a pilot program that those kinds of services can reduce recidivism.

Sonja said the work group was also looking at the JRI proposals and the supervision of property offenders. The work group also considered whether supervision should be included in the sentencing grid but felt that discussion was better handled by the sentencing grid work groups.

**VI. OTHER BUSINESS**

Chair Hauge directed members’ attention to a memo submitted by Maia McCoy regarding the post-conviction review process. Judge Rumbaugh, the chair of that work group, was unable to attend the meeting so the discussion of the memo was tabled until his return.

Judge Rogoff introduced Katie Hurley from the Department of Public Defense. She presented members with two legislative proposals that make changes to the use of juvenile convictions on adult offender scoring. Judge Rogoff thought this might be a topic members would want to weigh-in on. Greg Link noted that these kinds of issues are being litigated in court so it might be something for the Commission to think about as the courts might be ahead of them. Jon Tunheim said he was not convinced that the current scoring rules are inappropriate, but said that there is always room for creativity. He noted that there may be room for discussion on offenses where the juvenile score is the same as adult (ex. Theft of a Motor Vehicle scores 3 pts for juvenile and adult offenses). Tony Golik agreed.

Keri-Anne asked members where they would like to hold the meetings in January, February and March while the legislature is in session. Members indicated a preference for meetings closer to Olympia in February and March. For January, Keri-Anne said she will check with the CJTC.

**VII. ADJOURNMENT**

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

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Russ Hauge, Chair

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Date