



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

**SENTENCING GUIDELINES COMMISSION
MINUTES**

December 8, 2017 9:00am – 12:00pm

Criminal Justice Training Commission

19010 1st Avenue South Room C-202

Burien, WA 98148

Members Present:

Russ Hauge
Kathleen Kyle (Greg Link proxy)
Hon. Catherine Shaffer
Kecia Rongen (Elyse Balmert)
Stephen Sinclair
Hon. Roger Rogoff
Hon. Stanley Rumbaugh
Phillip Lemley
Kimberly Gordon
Jennifer Albright
Sheriff Paul Pastor
Tim Wettack

Members Absent:

Senator Kevin Van De Wege
Jon Tunheim
Hon. Maryann Moreno
Sonja Hallum
Rep. Brad Klippert
Senator Mike Padden
Michael Fenton
Rep. Eric Pettigrew
Tony Golik
Marybeth Qeral

Staff:

Keri-Anne Jetzer

Guests: Derek Young (WSAC); David Boerner; Ned Newlin (WASPC); Senator Darneille; Ed Vukich (CFC), Clela Steelhammer (DOC); Julie A Martin (DOC); Jaime Hawk (ACLU-WA); Juliana Roe (WSAC); Patricia Sully (Public Defenders Association)

I. CALL TO ORDER

Chair Hauge asked members to introduce themselves.

II. APPROVAL OF MINUTES

MOTION #17-22: MOTION TO APPROVE MEETING MINUTES FROM OCTOBER 2017

MOVED: Judge Shaffer
SECONDED: Stephen Sinclair
PASSED: Unanimous

III. REPORT ON SRA AREAS OF INTEREST

DOC Secretary Stephen Sinclair reported on DOC's areas of interest in the SRA review.

There was discussion about using risk assessment tools for sentencing and the legislature's use of the Commission during the legislative session.

Chair Hauge asked Secretary Sinclair to talk about enhancements. Secretary Sinclair commented that while enhancements seem straightforward, they actually are quite complicated for DOC. Clela Steelhammer explained that some enhancements aren't allowed to have earned time applied, meaning there is straight time on the enhancement but earned time on the base sentence. Some enhancements receive earned time, some are consecutive to one another while others are concurrent. She said it is confusing to try to interpret the Judgment & Sentence form on what the court intended and also how it comports with statute. Judge Shaffer commented that enhancements are a concern for judges as well. Because of the rigidity for some enhancements (such as those that must run consecutive) they don't always feel like they are handing down fair sentences or are able to carry out the purpose of the SRA, which is to treat like offenders alike. One option that has been discussed, she said, is the idea of using things like policy judgments and enhancements as sentencing factors.

IV. 2018 LEGISLATIVE SESSION

Chair Hauge reported that he spoke to the House Public Safety Committee during a work session about juvenile criminal justice system a few weeks back. He noted that King County and others are also looking to change how youthful offenders are sentenced. He reminded legislators that a piecemeal approach on the SRA is not going to serve the goal of making it less complex and more modern. He added that he doesn't see much discussion from the legislature about a full review of the adult felony sentencing system. He thinks it is possible, though, that the Commission may receive something about youthful offender sentencing. He spoke with the Governor's criminal justice policy advisor and, while the governor is concerned about criminal justice matters, there is not an indication from the executive branch that they would support and pay for a long-term, comprehensive review of the SRA right now.

Another topic that seems to have a great amount of interest with legislators is the review of long sentences. Chair Hauge feels that the Commission should establish a subcommittee to work on a post-conviction review proposal so if a legislator does want to pick it up it has already been vetted by the Commission. He clarified it would probably not be something for the 2018 legislative session.

Post-Conviction Review Subcommittee volunteers:

- Judge Rumbaugh
- Tim Wettack
- Kecia Rongen
- Greg Link

Judge Rumbaugh clarified that the goal of the subcommittee is to identify framework by which individuals are identified for review and then how the review process looks. Keri-Anne said she would be in contact with subcommittee members about meeting.

Members discussed some of the juvenile brain development research.

V. SRA REVIEW

Chair Hauge reiterated that during his presentation at the work session in the House Public Safety Committee he impressed upon committee members that piecemeal reform is not a good idea. Chair Hauge asked Commission members if they want to continue looking at the SRA globally and not look at piecemeal reform except those given to the Commission by the legislator. He noted that this is an opportunity for the Commission to set its own course since the legislature and the governor have not provided any direction. Members agreed to continue a global review of the SRA.

When discussing how to proceed, Chair Hauge advocated that members not focus on one's constituencies but instead come together as people who work in the criminal justice system. He admitted that he may not have contributed as much to outcomes back when he wore his WAPA "hat". He feels that if members commit to that idea, they'll have a better product to show to legislators.

He offered the idea that the Commission look at things from these perspectives:

- Pre-charging
- Charging
- Sentencing
- Supervision
- Reentry

Judge Rogoff inquired as to what would fall under the pre-charging perspective. Judge Shaffer replied that the police gather information pre-charging that many rely on and there are areas where judges are still looking for more information, such as an individual's minority background. Diversion programs would also be in the pre-charging stage. Chair Hauge said that charging and pre-charging come down to local practice. On one hand, many locals don't want the state to come in and mess with their practices. On the other hand, in many localities no one gets a diversion because they don't do it and that's not fair. The idea, he said, is to identify best practices to the extent that they can be utilized in other jurisdictions and encourage jurisdictions to use those without doing violence to the idea of local control.

Secretary Sinclair asked what was meant by the supervision perspective. Chair Hauge suggested that it encompass explanation the components that work and what the best practices are. Much more is known about what works now than back in the 1980s. Judge Shaffer said she would like more information on where supervision is effective and where it isn't. Kecia Rongen reminded members that some sex offenders have life-time supervision. Perhaps a look at whether that is best use of resources, how are they being supervised for life and other items would be helpful.

Judge Rogoff suggested splitting up the categories into subcommittees and having the subcommittees report, in laypersons terms, what the issue looks like now, what are the related statutes, and where changes could be made. Judge Rumbaugh agreed that a baseline look would be beneficial as not all of these topics are in his purview. Senator Darneille suggested that the legislature can be helpful in directing resources toward what is needed. Chair Hauge stated the resulting work product would be a report from the Commission that addresses what the best practices are in Washington.

Secretary Sinclair commented that the concept of reentry is placing in individual back into the community while the concept of reintegration is placing an individual back into the community and putting them in contact with the resources they need.

Senator Darneille added that there is a lot of interest in changing aspects of legal financial obligations.

As the next step, Chair Hauge said he will try to find funding and a person to help the members get organized around this inquiry – a one-time session where the work is divided up with the facilitator guiding us as to the most efficient technique.

Judge Rogoff suggested also looking at the goals of the SRA which are set out in statute. He thought being able to provide reasons or goals for any reforms

would be helpful in discussing it with legislators who ultimately will need to sell it to their constituents.

It was suggested to put the pre-charging topic on the next meeting agenda. Tim Wettack suggested that maybe Chair Hauge, with his experience, could be the facilitator. Members decided that volunteers for each topic would gather and send out information to members beforehand and then facilitate the conversation at the next meeting. Chair Hauge and Kim Gordon volunteered to take on pre-charging for the next meeting. It was suggested that law enforcement, i.e. Sheriff Pastor, might participate in the pre-charging topic, too.

Volunteers for the subject conversation facilitation:

- Pre-charging (Chair Hauge/Kim Gordon/Sheriff Pastor?)
- Charging
- Sentencing (Judge Rogoff)
- Supervision (Kecia Rongen, Secretary Sinclair)
- Reentry (Secretary Sinclair)
- Overall goals (Judge Rogoff)

Keri-Anne mentioned that this is a great time to utilize Box.com so any member could upload articles for other members to read. She was asked to re-send the Box.com information to members.

VI. OTHER BUSINESS

Chair Hauge discussed the Legislative Subcommittee. Volunteers for this year's subcommittee:

- Jon Tunheim
- Greg Link
- Chair Hauge
- Judge Rogoff
- Tim Wettack

Keri-Anne was notified by Kimberly Gordon that a few incarcerated individuals who watched the Commission meetings on TVW had sent her correspondence. As Keri-Anne is the 'gate keeper' of SGC correspondence, Kimberly forwarded the letters to her, which were included in the meeting materials. Chair Hauge commented that the suggestion of the reduced-cell grid looked very interesting. Kimberly asked if Keri-Anne had responded to the incarcerated individuals. Keri-Anne said she had not but would look for contact information and let them know their letters were shared with the Commission.

The January meeting date coincides with activities related to the Martin Luther King Jr holiday so members decided to move the January meeting date from the 12th to the 19th.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Russ Hauge, Chair

Date