



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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

**SENTENCING GUIDELINES COMMISSION  
MINUTES**

**December 14, 2018 9:00am – 12:00pm**

Criminal Justice Training Commission

19010 1<sup>st</sup> Avenue South Room C-201

Burien, WA 98148

Members Present:

Greg Link  
Russ Hauge  
Sheriff Paul Pastor  
Stephen Sinclair (Alex MacBain proxy)  
Rep. Brad Klippert  
Michael Fenton  
Maia McCoy  
Kimberly Gordon  
Hon. Stanley Rumbaugh  
Hon. Catherine Shaffer  
Phillip Lemley  
Tony Golik  
Jennifer Albright  
Kecia Rongen  
Senator Jeannie Darnielle  
Tim Wettack

Members Absent:

Rep. Eric Pettigrew  
Senator Mike Padden  
Kathleen Harvey  
Sonja Hallum  
Jon Tunheim  
Hon. William Houser  
Hon. Roger Rogoff

Staff:

Keri-Anne Jetzer

Guests:

Byron C Coates, Veterans Advocate; Kendra Wynn; Rachael Seevers, DRW; Matthew Tremble, SRC; Suzanne Cook; Tom Palmersheim, Prison Voice WA

**I. CALL TO ORDER**

Chair Hauge called the meeting to order.

## **II. APPROVAL OF MINUTES**

The Commission was asked to approve the minutes from November 2018

### **MOTION #18-21: MOTION TO APPROVE MEETING MINUTES FROM NOVEMBER 2018**

**MOVED:** Sheriff Pastor  
**SECONDED:** Phillip Lemley  
**PASSED:** Unanimous

Chair Hauge briefed members on two meetings he had. In the first meeting, Representative Goodman indicated he is pleased with what the Commission has completed thus far. He is interested in receiving a copy of the review to begin a process of review. Chair Hauge said he will try to meet with Senator Manka Dhingra soon to get a sense of what's happening in the Senate.

In the second meeting, Chair Hauge met with Justice Yu of the Minority and Justice Commission. The M&JC is working on legal financial obligations and Chair Hauge expressed the Commission's interest in coordinating with them. Justice Yu identified another legislator, Representative Drew Hansen, who is also interested in the LFO issue.

Chair Hauge informed members that some of the Commission's meeting during the legislative session will take place at the Liquor and Cannabis Board headquarters in Olympia. He noted that the facility has up-to-date telecommunications abilities.

Chair Hauge asked Representative Klippert to brief members on what is happening in the legislature. Rep. Klippert said that Initiative 940 (Police Training and Criminal Liability in Cases of Deadly Force) and HB 3003 are moving forward. He talked about a DUI meeting he was attending that very morning in another room at the CJTC, about visiting some of DOC's facilities, and about discussions he had with some of the incarcerated individuals during those visits.

## **III. SENTENCING GRIDS**

Chair Hauge asked members for their thoughts about an idea he had on how to deal with unranked and ranked offenses. Rather than create an extensive list of ranks, he proposed a grid would look at criminal history and apply a multiplier for the offense.

Judge Shaffer pointed out that the offense name alone doesn't connote the conduct itself; background information would be needed. Chair Hauge replied that he was working on the assumption that the judges would have a PSI available to them.

It was acknowledged by members that more PSIs would require more judicial time but the outcome would be better.

Chair Hauge asked members if there is a way to fashion an improved grid that will not require artificially ranking additional offenses. Judge Shaffer suggested merging this grid with the proposed Guided Discretion Grid by removing the degrees of ranking and sticking with the A-B-C classification system. It would make for an abbreviated system and link to existing statutory language. Kim Gordon agreed that, based on her exercise of re-ranking offenses to fit into the Guided Discretion Grid proposal, it is very arbitrary. She also reminded members that using the A-B-C classification would group many types of homicide or sex offenses, for example, into one group. Chair Hauge recognized that that is an issue.

There was more discussion about whether there is benefit in replacing the numerated offense ranking with the offense's assigned classification.

Chair Hauge asked members if they agree that the grid proposals need to be tightened up, make some decisions so they can move on. He suggested having it as the main agenda item for the next meeting.

#### **IV. REPORT FROM COMMUNITY SUPERVISION WORK GROUP**

Keri-Anne reported that the work group had a meeting the previous week. They had been given a sizeable amount of information and were still working through it. They have another meeting scheduled prior to the next Commission meeting.

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

Chair Hauge asked Maia McCoy to brief members on the memo she submitted to the Commission at the last meeting. She told members her main concern was that the work being done with this proposal would have very serious impact on crime victims who are given very few resources to find rehabilitation themselves.

At their last meeting, the work group talked about ways to reduce the re-traumatization of the process. Judge Rumbaugh said their idea was to create a two-stage review. The first step would be to review institutional behavior, not just the passage of time. Victims would not be informed until the incarcerated individual moves past the first step to the second step which is the formal review. The work group discussed increasing the serious infraction time eligibility from 12 months to 18 or 24 months.

Chair Hauge inquired if there was programming available for individuals to take in order to qualify for a review? Alex MacBain said DOC has taken steps

to make programming available under the similar process for the juvenile board cases. Doing so for this new process would require a re-prioritizing of programming with limited programming dollars. Kecia Rongen added that this would be a much larger population to deal with than the juvenile board cases. She also noted that there is difficulty in getting people into drug and alcohol treatment because DOSA offenders get priority, and getting people into evidence-based programs because they don't score high enough on the risk assessment. DOC doesn't have resources for mental health treatment unless an individual has active symptoms to receive individual counseling. She also validated Maia's concern about the traumatization to victims based on her agency's experience when the ISRB notifies victims when an individual has the opportunity to be released.

There was discussion about infrastructure, treatment opportunities, and funding.

Senator Darneille informed members that there will be a proposal of some sort this legislative session. She talked about the lack of robust reentry plans and service-rich wrap-arounds in most of the proposals. She added that her senate committee is interested in making sure that reforms are seen through a racial lens.

There was discussion about the Commission taking a look at individuals who serve shorter sentences and need availability to resources upon release.

Chair Hauge said he sees the Commission is at a point to give the legislature something to think about. Yet to be identified are those who would be eligible for Step 1 and what criteria would be used to evaluate them. Some real numbers are needed as well as some fiscal data. Tony Golik reiterated that Washington Association of Prosecuting Attorneys is not supportive of the post-conviction review process. They prefer to add funding to the Clemency and Pardons Board. Chair Hauge commented that he doesn't see any reason to limit the discussion to one proposal and would be most interested to see a proposal or details from WAPA on how to make the CPB more robust and responsive.

Chair Hauge would like to see a proposal on post-conviction review in memorandum form that shows the cost, where the cost might be recouped over time, and present how the CPB could work more effectively. Kecia suggested adding to the proposal additional funding for victim counseling.

Judge Shaffer requested that the Commission put together a work group to look at a 'second look' type of process for individuals who are in the low- to mid-range who are going to prison. Chair Hauge replied that the Commission has so much work to do that he's afraid another work group would create a loss in momentum. However, he doesn't want to discourage anyone from

doing this on their own for submission to the Commission. He would be happy to include it on the next agenda.

## **VI. OTHER BUSINESS**

Chair Hauge informed members about a discussion that he and Keri-Anne had about the PSIs about whether DOC was the right organization for the PSIs. Chair Hauge noted the success the Superior Court has had with the juvenile courts. These courts have successfully coordinated with one another creating uniform approaches to that very broad area of the law and where judges essentially have control over everything. He thought it would be a good idea to create the same kind of system for PSIs. He proffered that if it was a function of the court, it would provide the opportunity for a database that would inform judges.

Judge Shaffer commented that she was unsure if bringing the PSIs back would be of benefit. In the past, she added, the PSIs were mostly a repeat of the limited information they already had. There weren't any objective tests and there wasn't a clear picture about past history other than names of offenses. She feels there are resources available now that would provide the parties with information electronically but it isn't being used. Sheriff Pastor suggested a statement by the Commission about a vertically integrated criminal justice information system at the local and state level might solve some of the problems with getting information.

Tony Golik cautioned members that if there are broad ranges and if the information gathered is related to education, employment, etc., it could lead to racial disproportionality outcomes.

Tony also commented that, in his experience with the juvenile court, he believes the Superior Court will be better served if the person completing the PSI is an employee of the court.

Kim Gordon mentioned that the proposal to move PSIs under the direction of the court is similar to that in the federal system. What she likes about this model is that it is designed to get the judge information and there are multiple opportunities to supplement the information as both parties are providing information to the probation officer who is generating the PSI. In the federal system, the probation officer produces a draft report to both the defense and the prosecution right before sentencing, allowing one additional time to submit additional information, objections, and requests for changes.

Chair Hauge requested the judges get feedback from their organization for the next meeting on whether it would support placing the PSI responsibility within the Superior Court instead of with DOC.

Senator Darneille let members know that a bill will be released and that a hearing or work session will probably be held sometime in January.

Tom Palmersheim asked to speak to the members. He agreed that judges need more support. Byron Coates also asked to speak to members. He presented a handmade Gold Star Mother box that incarcerated veterans at Stafford Creek make and given to mothers who have lost a child in combat.

Keri-Anne informed members of the upcoming meeting location. She also informed members that the February meeting will have the presentation from CSG so they can plan accordingly.

**VII. ADJOURNMENT**

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

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Russ Hauge, Chair

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Date