



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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

**SENTENCING GUIDELINES COMMISSION
MINUTES**

June 14, 2019 9:00am – 12:00pm

Liquor and Cannabis Board
3000 Pacific Avenue, 1st Floor Boardroom
Olympia, WA 98504

Members Present:

Greg Link
Sheriff Paul Pastor
Stephen Sinclair (Alex MacBain)
Maia McCoy
Kathleen Harvey
Hon. Stanley Rumbaugh
Phillip Lemley
Kecia Rongen
Tim Wettack
Jon Tunheim
Hon. Roger Rogoff (phone)
Sonja Hallum
Russ Hauge
Jennifer Albright
Tony Golik
Senator Jeannie Darnielle
Hon. Catherine Shaffer
Michael Fenton

Members Absent:

Senator Mike Padden
Rep. Brad Klippert
Kimberly Gordon
Hon. William Houser

Staff:

Keri-Anne Jetzer

Guests:

Lauren Knoth, WSIPP
Clela Steelhammer, DOC
Ed Vukich, CFC
Russell Brown, WAPA

I. CALL TO ORDER

Chair Hauge called the meeting to order.

II. APPROVAL OF MINUTES

The Commission was asked to approve the minutes from May 2019

MOTION #19-34: APPROVE MEETING MINUTES FROM MAY 2019 WITH CHANGE

MOVED: Phillip Lemley
SECONDED: Tony Golik
PASSED: Unanimous

Discussion: Tony Golik clarified that in the discussion regarding deterrence, when WAPA discusses an increase in punishment, deterrence may be part of the discussion, based on the crime. Keri-Anne said she would change the minutes to reflect this.

III. UPDATE ON TVW INTERVIEWS

Chair Hauge announced that he and Judge Rogoff had been interviewed for the Inside Olympia show on TVW. Chair Hauge briefed members on his part of the interview, noting the topic was about the SRA Review report and informed members about his interview.

Judge Rogoff briefed members on his part of the interview, highlighting the interest in the potential to increase in racial disproportionality when increasing judicial discretion.

IV. REVIEW DRAFT SRA REPORT

Keri-Anne reminded members that the April minutes were approved with the exception of Motion 19-29. She asked that the record be clarified. Members discussed the original motion.

MOTION #19-35: INCLUDE IN SRA REVIEW REPORT A RECOGNITION THAT A RISK OF PERPETUATING RACIAL DISPROPORTIONALITY EXISTS WHEN INCREASING THE RELIANCE ON RISK ASSESSMENT TOOLS EMBEDDED WITHIN A PSI

MOVED: Judge Rumbaugh
SECONDED: Tony Golik
PASSED: Unanimous

Discussion: Sonja Hallum commented that it is a good idea to include this in the report as there is a growing recognition around the country about the use of risk assessments particularly in the pre-trial/cash bail determinations. She went on to say that over the past year there has been a rethinking of the use of risk assessments.

Chair Hauge asked Tim Wettack to bring forth his suggestion regarding the report. Tim replied that the SGC has spent many hours on the subject of post-conviction review and he felt strongly that it should be mentioned in the report. Chair Hauge agreed that, while that topic was not within the scope of the review, a lot of work has been done on the subject and it should be mentioned. He said there are a number of proposals regarding post-conviction relief that have been put forth by the SGC that are outside the scope of this report but he feels they should be considered in any comprehensive review of our sentencing scheme. Tim added that there is agreement among the entire SGC that the current system of clemency is not adequate. There is support from the prosecutors for a more robust clemency process which is acknowledgment to him that the current system is inadequate. There is disagreement within the SGC on how to get there but there is agreement that there needs to be a more enhanced approach to review sentences.

Russ asked members if they also felt that the report should include mention of the state's sovereign immunity doctrine. Jon Tunehim commented that WAPA has discussed sovereign immunity in their discussions about eliminating money bail. Jon went on to say that sovereign immunity would be needed for the type of supervision that is envisioned as it is assumed that one of the considerations always in play with DOC is their own liability risk. If that was no longer an issue, the focus could be on the most appropriate supervision that best protects the community and would be worth consideration by the Legislature.

Members talked about how there is still a need for some form of accountability. It was thought accountability might still be achieved through a higher standard of conduct. Members seemed to be in agreement that there needs to be a balance between accountability and the current level of liability that may impact the services provided. Jon reminded members of the other issue of joint and several liability.

MOTION #19-36: IDENTIFY IN SRA REVIEW REPORT THAT THE WAIVER OF SOVEREIGN IMMUNITY WILL EFFECT DECISION MAKING AND NEEDS TO BE CONSIDERED IN ANY REFORM OF THE SRA.

MOVED: Tim Wettack
SECONDED: Judge Shafer
PASSED: Unanimous

Discussion: Sonja added that the way Washington holds people personally liable is unique in this country and should be mentioned. Accountability for the agency is one thing but a person losing their home over decisions is another. Keri-Anne said she would work with Russ to come up with some related language for both the post-conviction review and sovereign immunity.

Keri-Anne led the members through the SRA Review report for discussion of comments and suggestions. Some members vocalized a concern of increasing racial disparity with increasing the sentencing grids and what the literature concludes.

Chair Hauge noted for the record that with one staff person the SGC has created a piece of work that more than meets the legislative obligation. Members thanked Keri-Anne for her work on the report.

V. OTHER BUSINESS

Chair Hauge entertained a motion to skip the July and August 2019 meetings.

MOTION #19-37: SKIP JULY AND AUGUST 2019 SGC MEETINGS

MOVED: Judge Rumbaugh

SECONDED: Sheriff Pastor

PASSED: Unanimous

Chair Hauge asked that everyone remain in contact should anything come up. He also announced the SGC’s presentation to the Public Safety Committee on July 16.

VI. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Russ Hauge, Chair

Date