



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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

**SENTENCING GUIDELINES COMMISSION  
MINUTES**

**October 11, 2019 9:00am – 12:00pm**

Criminal Justice Training Commission

19010 1<sup>st</sup> Avenue South Room C-211

Burien, WA 98148

Members Present:

Greg Link  
Stephen Sinclair  
Maia McCoy  
Hon. Stanley Rumbaugh  
Tim Wettack  
Russ Hauge  
Jennifer Albright  
Senator Jeannie Darnielle  
Kimberly Gordon  
Kathleen Harvey  
Michael Fenton  
Hon. Catherine Shaffer  
Sheriff Paul Pastor  
Hon. Roger Rogoff

Members Absent:

Senator Mike Padden  
Rep. Brad Klippert  
Rep. Lauren Davis  
Sonja Hallum  
Tony Golik  
Phillip Lemley  
Kecia Rongen  
Jon Tunheim  
Hon. William Houser  
Derek Young (Skype not working)

Guests:

Lauren Knoth, WSIPP  
Mac Pevey, DOC

Staff:

Keri-Anne Jetzer

**I. CALL TO ORDER**

Chair Hauge called the meeting to order.

## **II. APPROVAL OF MINUTES**

The Commission was asked to approve the minutes from September 2019

### **MOTION #19-40: APPROVE MEETING MINUTES FROM SEPTEMBER 2019**

**MOVED:** Judge Rumbaugh  
**SECONDED:** Judge Shaffer  
**PASSED:** TABLED FOR AMENDMENT

Discussion: Senator Darneille remarked that there was such a robust discussion at the September meeting and many project topics were mentioned. She was interested in having them memorialized into the minutes so that they are not lost.

Chair Hauge invited members to send to Keri-Anne the topics they remember from the discussion at the September 2019 SGC meeting to help her to modify the minutes.

## **III. CRIMINAL SENTENCING TASK FORCE – Update**

Chair Hauge briefed members on the task force meeting. He was unable to attend the first half of the task force meeting so he asked other members who had been at the meeting to also provide an update.

Mac Pevey attended the meeting for Secretary Sinclair. He summarized that the meeting discussed the rules of engagement and how the group should make decisions. They talked about general themes of interest to the stakeholders and what outcomes they would want to see. He went on to say that priorities were set based on the recommendations provided in the SGC's report for the first report due at the end of 2019 and that the report due at the end of 2020 to be based on sentence reform or changes recommended by the task force.

Chair Hauge noted that the SGC's report had not been submitted to task force members before the meeting. The facilitators said they would share it prior to the next meeting and that SGC would be asked to present on it. Chair Hauge added that he had not heard anything more about what will take place at the next meeting. He added that he has concerns about how quickly the task force will come up to speed on the issues and be able to make suggestions for legislation.

Kim Gordon reiterated Chair Hauge's concern and added that the facilitators are starting from a very basic understanding of the criminal justice system. Knowing how much thoughtful work the SGC put into coming up with the report, she will be interested to see if the task force can get up to speed and make progress.

Secretary Sinclair expressed concern that the task force members had not been provided the SGC's report. He inquired if it would be appropriate for the SGC so send it to them. Keri-Anne informed members that during her presentation to the task force on the history of the SGC, she did cover recommendations of the report at a very high level. She also emailed links to the facilitators for the SGC's report, for all of CSG's Powerpoint presentations, for the TVW recording of the SGC meeting when the CSG gave its final presentation, and for a criminal justice flowchart created by the Bureau of Justice Statistics. Members requested that Keri-Anne forward that email with the links to them. Sheriff Pastor also inquired if it would be appropriate for Chair Hauge to reach out to the three co-chairs of the task force with this information.

Kim Gordon suggested that SGC members who are not on the task force could offer assistance and support by attending task force meetings, informing the task force members and look for other ways to educate them, if members have the time.

Secretary Sinclair mentioned that DOC has been working for several months on what implementation of some of the concepts in the SGC's recommendations would look like. He asked if he could bring that information in front of the SGC for feedback. Chair Hauge welcomed that idea. Secretary Sinclair added that DOC could create a crosswalk of DOC's implementation ideas to the concepts in SGC's report to show DOC met those elements and provide that to members, too.

Senator Darneille commented that she's heard some legislators in the House may not bring up certain bills until the task force has completed its work. She added that is not the sentiment in the Senate.

Chair Hauge brought the discussion back to the comment about the SGC reaching out to the co-chairs of the task force to provide more information. He said he would be happy to do this if that is what the members wanted.

**MOTION #19-41: SGC CHAIR TO REACH OUT TO CRIMINAL SENTENCING TASK FORCE CO-CHAIRS TO BETTER INFORM THEM OF THE WORK THE SGC HAS DONE**

**MOVED:** Secretary Sinclair  
**SECONDED:** Kimberly Gordon  
**PASSED:** Unanimous

Discussion: Chair Hauge said he would send each of the chairs a hardcopy of the SRA report and reiterate the list Keri-Anne provided of the other resources available.

Tim Wettack suggested that the link to the Inside Olympia interviews with Chair Hauge and Judge Rogoff would also be helpful. Keri-Anne said she would send that to the facilitators as well.

At members' request, Keri-Anne will send any CSTF meeting information to members. Chair Hauge encouraged members to attend any/all of the CSTF meetings.

#### **IV. ALTERNATIVES TO CONFINEMENT INVENTORY**

Chair Hauge talked about the project of collecting information on programs occurring at the local level in terms of alternatives to incarceration, therapeutic courts and diversion programs. He spoke with Russell Brown, Executive Director of the Washington Association of Prosecuting Attorneys, who volunteered to send a survey to WAPA's membership to help collect the information.

There was discussion about the survey and who should also be surveyed, such as the juvenile court administrators and district court administrators. Judge Rogoff said one thing that is affected is juvenile points. He indicated an interest in seeing data on what the offender score is for a juvenile who received their first adult felony sentence and, from this, learn if it would make sense to pursue proposals to limit the impact of those juvenile convictions in adult court. Greg Link commented that some juveniles may not have points because the county had a diversion program so he believes looking at juvenile and district court programs has value.

Kathleen Harvey briefed members on the work being done in relation to E2SSB 6160 that extends the jurisdiction of JR to age 25 and on E2SHB 1646 which allows electronic home monitoring for individuals with a release date between 25 and 26 years of age. Senator Darneille stated that Washington is only the second state to extend youth to JR until age 25 (Oregon being the first). She informed members that she will be visiting Oregon sometime before session and invited any interested members to accompany her. Lauren Knoth informed members that both bills included an assignment for WSIPP. The first report, due in 2023, will look at treatment and racial disproportionality. The final report, due in 2031, will analyze recidivism.

Keri-Anne offered to meet with Jennifer Albright and Lauren Knoth to formalize the survey questions and bring it back to the membership. Chair Hauge agreed that asking the same questions of all organizations is ideal, however, he also wants to take advantage of the opportunity with WAPA. He will work with Keri-Anne on this.

Maia McCoy asked if general alternative practices are being collected with the survey. As an example, she mentioned stipulated orders of continuance. Chair Hauge thought that plea bargains and policy-related decisions would be

difficult to collect. However, he also doesn't want to miss information because the right question wasn't asked so he is interested in all ideas.

## V. **OTHER BUSINESS**

### Juvenile Justice

Chair Hauge wanted to talk more about how changes in the juvenile system impact the adult system and whether there was interest in looking at juvenile justice issues. Judge Rogoff said many other groups are working on the juvenile justice system, per se. He proposed the SGC could work on the areas of the juvenile justice system that affect the SRA, which would fall under the SGC's purview.

Chair Hauge remarked that he would benefit from an update on what the legal environment is now with the changes, how those are going to impact what JR is doing, and how those will impact local governments and DOC. Kathleen Harvey mentioned that JR presented to WAPA and the juvenile court administrators about "JR to 25." She offered to present to the SGC. Chair Hauge and other members indicated an interest in seeing the presentation and asked if she could present at the November meeting. Kathleen noted that Marybeth Queral would probably like to be part of the presentation, too.

Senator Darneille wondered if the SGC would be interested in the ISRB providing an assessment on the juvenile board case reviews, to include information such as how many were eligible for resentencing/release, what criteria are used in the reviews and how are they applied, and what kind of information was gathered.

Mike Fenton mentioned that, in terms of juvenile courts' use of alternatives to incarceration, he would be happy to provide an overview of what services are offered. It does vary from county to county and there is no way to catalog that, which is a problem, however.

### Judgment and Sentence Form

Keri-Anne reported to members the discussions at the J&S Pattern Form Committee relating to reorganization of the J&S form that had been proposed by DOC a while back. She informed members that there are still stakeholders who do not like the reorganization. The committee decided to hold off on pursuing the reorganization and instead DOC said it would try more education. Secretary Sinclair posited that DOC has offered training over the past few years but essentially there has been no change in opinions. He remarked that about 10% of J&S forms each year are wrong, which equates to around 800 individuals with a problem sentence. This is still a big issue for DOC. Keri-Anne further reported that the committee created a list of alternative methods it thought may help decrease the amount of errors on the J&S form, which included stamping the judge's name on the form (some unreadable or absent) and providing bench cards for community custody and

DOSA. The committee decided not to move forward on the form as the work of the Criminal Sentencing Task Force includes simplifying community custody as well as exploring other areas to reduce errors.

Judge Rumbaugh said the majority of the remands for sentencing in Pierce County are for credit for time served calculations. He said the statute is not clear as to what exactly the courts are responsible for providing. The calculations are difficult for the courts, he said, as they don't have access to computer programs that hold information necessary for accurate calculations. He added that if the intent of the statute was for the trial sentencing judge to do the calculation, then the statute needs to say that. Senator Darneille replied that that information was helpful as the failure to clarify where the accountability lays is resulting in tort liability for failure to implement a strategy at DOC that is perfect.

Mac Pevey implored the group to think about the other consumers of the J&S. They would include those who have been sentenced, their families, treatment providers, and community corrections officers. He noted that, in reviewing a J&S for a tort case, he found supervision conditions scattered among four different pages.

Chair Hauge advocated for making the sentencing rules simpler so there aren't so many places where errors can occur, such as simplifying the requirements for credit for time served and community supervision, or maybe giving discretion to DOC to make a minor adjustment to a release date. Secretary Sinclair replied that since DOC's role is providing a term of incarceration, he didn't think it was appropriate for DOC to determine who comes to DOC and for how long.

Greg Link said that if there is going to be future discussion about the form it would be helpful to know where the errors are occurring. Chair Hauge thinks this would be a good thing for the SGC to look into if the idea is to look at something more systemic and not just a more streamlined form.

Senator Darneille posited that maybe there could be some sort of amnesty for counties if the error is negligible in terms of the true length of the sentence. Where the liability comes from, she suggested, is to admit that errors take place for legitimate reasons and not get wrapped around a "precision" axle. There was discussion about the difficulty counties have in finding accurate information and data when completing a J&S, about the lack of the use of technology for this issue and that Washington does not have a unified court system. Lauren Knoth suggested looking at what other states of have done, such as Pennsylvania.

Chair Hauge asked how the members want to proceed. There was interest in pursuing this topic. He asked Secretary Sinclair to provide an information sheet on the J&S error information again to the SGC.

**MOTION #19-42: INVESTIGATE WHAT OTHER STATES HAVE DONE REGARDING JUDGMENT AND SENTENCE INFORMATION**

**MOVED:** Secretary Sinclair  
**SECONDED:** Judge Rumbaugh  
**PASSED:** Unanimous

Other  
Judge Rumbaugh informed members that the Pierce County drug court turns 25 on Thursday, October 17. There have been over 2000 graduates during that time. It is a time to celebrate what can be done and he invited everyone to attend if they are in the area.

Keri-Anne informed members that she has been in touch with Professor Berger from UW who gave a presentation on the history of Washington prisons and is working with OFM to bring him to the Olympia area to give his presentation.

**VI. ADJOURNMENT**

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

/ s /

\_\_\_\_\_  
Russ Hauge, Chair

\_\_\_\_\_  
Date