



STATE OF WASHINGTON

## SENTENCING GUIDELINES COMMISSION

*Helen Sommers Building, PO Box 43124 • Olympia, Washington 98504-3124 • (360) 902-0425*

### MEETING MINUTES

**June 12, 2020 9:00am – 10:00am**

**Skype/Conference Call**

Members Present:

Stephen Sinclair (proxy: Mac Pevey)  
Hon. Stanley Rumbaugh  
Russell Hauge  
Jennifer Albright  
Hon. William Houser  
Maia McCoy  
Greg Link  
Derek Young  
Rep. Lauren Davis  
Tim Wettack  
Senator Jeannie Darnielle  
Kathleen Harvey  
Hon. Catherine Shaffer  
Jon Tunheim  
Sonja Hallum  
Hon. Roger Rogoff  
Tony Golik  
Sheriff Paul Pastor

Members Absent:

Senator Mike Padden  
Rep. Skyler Rude  
Norrie Gregoire  
Kecia Rongen  
Phillip Lemley  
Kimberly Gordon

Staff:

Keri-Anne Jetzer

**I. CALL TO ORDER**

Chair Hauge called the meeting to order.

**II. APPROVAL OF MINUTES**

Members were asked to approve the May 2020 minutes.

**MOTION #20-08: APPROVE MEETING MINUTES FROM MAY 2020  
WITH CHANGE**

**MOVED:** Sheriff Pastor

**SECONDED:** Derek Young

**PASSED:** Unanimous

Discussion: Sheriff Pastor said he was in attendance at the meeting via conference. Keri-Anne will change the meeting minutes to reflect that Sheriff Pastor was in attendance.

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

Since he was not able to attend the last full CSTF meeting, Chair Hauge asked other members to present. Greg Link reported on the discussions in the full meeting and also noted that the smaller sentencing work group is starting to look at components of sentencing and working on structuring the research proposal.

Chair Hauge asked Mac Pevey to brief the members on the status of the CSTF Reentry work group. Mac reported that this work group has been diving into details about community supervision, restoration of voting rights, the suspension or elimination of certain legal financial obligations, and resources offered to and programming for criminal justice-involved individuals. There has been good participation and sharing of information. Senator Darneille asked if there will be specific legislation on voting rights restoration coming from the Task Force. Mac replied that he believes that potentially there will be something offered that would offer better definitions and expansion.

Chair Hauge asked Mac if there were any discussions about the narrow category of offenses that receive a supervision term. Mac replied that he wasn't aware of any discussions but thinks that maybe the full Task Force may be the place to discuss that. He acknowledged that who can get supervision is complicated. It is not only tied to eligible crimes but is also tied to sentencing type and risk. The risk determinations are made when the individual is set to be released from prison or jail. Chair Hauge stated that until the discretionary nature of who actually receives community supervision is dealt with, it may impede creation of concrete proposals. Mac agreed that that information would define the degree and the scope of who is supervised and that will inform how much resources are required.

Chair Hauge shared that as the CSTF gets further into the process, complexities are still emerging. The Task Force is starting to recognize, in his opinion, that there isn't going to be a 'fix' at the end of this Task Force, but that it will continue on for some time. Sonja Hallum stated that it is very important to look at the research and data on who is being supervised adding that the research doesn't support having a broader scope of supervision as it can increase disproportionality. She suggested caution when deciding to expand supervision. Judge Shaffer agreed. Chair Hauge remarked that while these are discussions happening at the CSTF, he hasn't heard that they are getting any closer to answering those fundamental questions than the SGC did when working on the SRA Review report. He is of the belief that there will be

a lot of work to do after the Task Force has concluded. He asked members what the SGC can do to further that discussion.

Mac said the reentry work group is planning to present to the CSTF a handful of recommendations. Chair Hauge pointed out, however, that those recommendations don't address the fundamental questions of who is being supervised, why they are being supervised, what is happening during supervision, what the consequences are, and how it's going to end.

Chair Hauge restated that the real question before the membership is how will they spend their time? He proposed that, like in years past, the group not meet in July and August. He said he would like to try to sharpen the focus a little bit, but he would also like to get members' feedback on how they think the SGC could best use its time going forward. He referenced the SGC's 1991 report which he asked members to read prior to the meeting. He noted that report contains many of the same issues that are being discussed today.

Judge Rumbaugh thought it would be difficult for the SGC to know where to pick up the ball until they see what the CSTF ends up. Chair Hauge remarked that when the CSTF is done, there is still going to be a lot of work to be done and the SGC will be the only group around to continue those conversations. Derek Young commented that he got a better understanding of the direction Representative Goodman wanted to go at the last in-person CSTF meeting. The recent events that have changed the political dynamic may alter that course, he added. The idea that both budget considerations and the urgency in trying to reduce unnecessary incarceration are going to drive more towards justice reinvestment and less in terms of punitive incarceration. Chair Hauge conveyed that the CSTF is doing good work, at the very minimum by broadly expanding the understanding of the system, its issues, and how it works.

Sonja Hallum said she does expect legislation to come from the Task Force, regardless of how detailed the recommendations may be, but thinks it may be premature at this point to know which direction the Task Force is intending to going - the Task Force may not even know yet. Judge Rogoff thought that whatever the Task Force is doing has any impact on the SGC should be doing.

Senator Darneille hoped the SGC would be flexible enough to address its pathways to the issues related to racial justice. She believes the SGC should be examining how the decisions are made by this group. She went on to say that even the scope of conversations in this group are white centric, the system is white centric, the power is in the hands of predominately white people, and the SGC could be in a place to make recommendations to change that system relative to being educated and committed to a more racially just system in Washington state. Chair Hauge agreed and said one thing the SGC can do is provide a forum for interest groups to provide a statement of what their position is. Sonja agreed but felt the SGC has the opportunity to go a bit

further. There is a tremendous amount of expertise in this group that could look at recommendations for the upcoming legislative session on how changes could be made to the system to impact racial inequity and disproportionality by more than just providing a forum for discussion. Judge Shaffer inquired as to what topics Sonja was thinking of. Sonja replied that, off the top of her head, there may be more work to be done on LFO reform, they could look at supervision in that context, take on sentencing issues. When asked her thoughts, Judge Shaffer suggested revisiting the racial disproportionality impact statement legislation recommendation and look hard at pretrial practices in terms of screening arrests and setting bail. Judge Rumbaugh informed members that Pierce County received an Arnold Ventures Foundation grant to examine pretrial practices, the committee which he chairs. He informed members of some of the work the committee has completed. Sheriff Pastor observed there are two important things to keep in mind: 1) look at the fairness of decisions when looking at racial disproportionality so that we do not get to the point of de-policing communities of color and 2) looking at criminal justice accountability alternatives. These are happening in Pierce County and he would like to see it increased. Judge Rumbaugh replied that this can't be looked at in a vacuum. The reason that there is disproportionate criminal investigation and activity in minority neighborhood, he said, is a result of decades of disinvestment and when there is investment, the neighborhood becomes gentrified. He went on to mention the disproportionate opportunities in education, job skills training, and employment. The courts are not equipped to address all these contributing factors that have been in place for decades, he said.

Chair Hauge remarked that he didn't think the root causes of crime could be stamped out through the actions of the SGC. He reminded members that, after a lot of discussion, the decision was made to not focus on specific legislation but rather discuss the policies and what happens to bills when they get to the legislature and run into interest groups that have the political wherewithal to kill them.

Chair Hauge suggested what he would like to do so as not to waste members' time. He said there is an opportunity to do a few things. Since there is no budget for the SGC, members can look at the landscape and the players on that landscape who have a stake in the justice system, beyond the membership, who the SGC is supposed to represent. There is a responsibility to the rest of the community as well that is not represented, he believed. That includes not just people who are of color or come from a portion of society that has been disadvantaged and discriminated against, but also the police unions, which carry weight with the legislature. He went on to say that their positions will be more subject to legitimate, intelligent scrutiny than they have been in the past. Sheriff Pastor agreed. He suggested that the SGC can tease out where those interests lie, what are the things that prevent policing from being viewed as something other than a militaristic intervention in a

community that doesn't look like the police officers. Sonja Hallum interjected that she doesn't agree that is the role of the SGC. She restated, with the expertise on the SGC, the interest to look at sentencing issues and the ways the system impacts people of color. She would like to see the expertise of the SGC used to look at sentencing issues. The suggestion to look at pretrial issues is one that she really like the opportunity to discuss as a group to decide whether they want to go that route. She is not supportive of looking at questions around police unions and that grouping as she's not sure if that is the role of the SGC.

Chair Hauge responded to Sonja and Judge Shaffer saying that that has been looked at lot, specific proposals have been made, there have been presentations on the LFO issue from the working group within the Minority and Justice Commission that came up with a tool to rationalize the imposition of LFOs, the state was sampled in terms of pretrial projects that prosecutors are using to divert people from the system. Judge Shaffer asked for a response specifically to what she and Sonja were interested in looking at: screening arrests when they come the court houses and conditions of release including not bail at the time the cases first arrive. That is where disproportionate impacts start in terms of the criminal justice system and she said the SGC hasn't looked closely at it. If the SGC is going to focus somewhere, that would be her vote. Chair Hauge asked if the focus would be on the King County situation, the Pierce County situation, or the Spokane County situation. Sonja replied that she doesn't think the focus needs to be on any particular situation and made a motion to move forward on that recommendation and look at it as a whole and have a full discussion. Chair Hauge asked for clarification of the motion. Sonja replied that she thought it was just articulated. He replied that talking about the conditions people face when the first release decision is made, often without a judicial officer present, sometimes is just the person running the jail.

**MOTION #20-09: LOOK AT PRETRIAL REFORM ISSUES IN LIGHT OF RACIAL DISPROPORTIONALITY AND INEQUITIES AND LOOK AT THE FULL SCOPE AND DELVE INTO THAT AS PART OF THE DISCUSSIONS.**

**MOVED:** Sonja Hallum  
**SECONDED:** Judge Shaffer  
**PASSED:** Yes – 14; No – 1  
Abstain: Tim Wettack

Discussion: Judge Houser explained that his vote against the motion is because he believes that pretrial release issues are not under the SGC's bailiwick. He said he is passionate about pretrial release and has been working within his own court on that but, in his opinion, it doesn't fall under the purview of the SGC. Chair Hauge said he supported that and that he voted

Yes because that is the way the vote was going and that if this is what the membership wants to spend time on, that is what we'll do.

Judge Rogoff suggested the SGC bring in voices from the community who have other ideas about criminal justice reform, sentencing, and pretrial bail issues that the SGC will be discussing, that members hear more directly and intentionally from those groups going forward. Chair Hauge replied that that was where he was going, suggesting the members hear all the voices from all the sides.

Tim Wettack commented that he supports Chair Hauge's comments before they were derailed by the motion. He thinks the Chair's perspective was right on the money and the SGC should pursue what he was talking about. Tim reminded members that a few months ago the SGC made a recommendation to the Governor about clemency. He was curious as to what has happened in that regard and asked Sonja Hallum to respond as she is in the Governor's Policy Office. Sonja replied that they are continuing the process they have engaged in while the Governor has been in office looking at clemency. She went on to say it is not their position that clemency is the primary route that should be used to review sentences. Sonja noted she wasn't sure what response Tim was looking for, but she wanted to finish this conversation before moving into a clemency conversation. She said she appreciates "your views and your perspective" (it was unclear in the recording who that was directed toward). She stands by her position that looking at those issues around unions, etc. are not the scope of the SGC. She went on to say that she doesn't feel the motion that passed excludes the opportunity to hear from other individuals who are impacted and the comments around that would be very complimentary to that discussion and would welcome that opportunity.

Judge Rumbaugh agreed with Judge Rogoff and suggested in future meetings that the SGC invite voices from the minority community to attend and provide input. Judge Shaffer thought it would be a really good idea to invite people of color, in particular, people who represent African American interests. She said there has been a lot of work in the communities of color, and in particular African American communities, on pretrial reform so it won't be hard to find people to present to the SGC. Maia McCoy added that hearing from victim-centered organizations serving communities of color would be helpful. Senator Darneille noted that there are significant African American voices participating in post-conviction review analysis.

Derek Young informed Chair Hauge that he plans to figure out a way to get new-ish councilmember in King County Girmay Zahilay to help him on the CSTF and SGC as a representative of counties. He said Councilmember Zahilay has background in criminal justice, is an African American, and has been active in the south King County district on these issues. While wanting to be respectful for the schedules of other members, Derek said he was eager

to start working on these issues, he said he would be happy to continue working in July and August.

**IV. OTHER BUSINESS**

Chair Hauge asked members if cancelling the meetings in July and August was of interest, since historically, there is low participation. A poll of the members was taken, and it was clear that there was interest to continue to meet during those months.

**V. ADJOURNMENT**

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

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Judge Stanley Rumbaugh, Acting Vice-Chair

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Date