



STATE OF WASHINGTON

## SENTENCING GUIDELINES COMMISSION

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

### MEETING MINUTES

**April 9, 2021 9:00am – 12:00pm**

#### MS Teams

Members Present:

Hon. J. Wesley Saint Clair, Chair  
Hon. William Houser  
Hon. Stanley Rumbaugh  
Councilmember Derek Young  
Councilmember Phillip Lemley  
Kimberly Gordon  
Greg Link (proxy: Kimberly Gordon)  
Tony Golik  
Hon. Catherine Shaffer  
Chief Cherie Harris  
Hon. Josephine Wiggs-Martin  
Stephen Sinclair (proxy: Julie Martin)  
Tim Wettack  
Jennifer Albright  
Norrie Gregoire  
Senator Jeannie Darneille  
Kathleen Harvey

Members Absent:

Senator Mike Padden  
Rep. Lauren Davis  
Rep. Skyler Rude  
Kecia Rongen  
Sonja Hallum  
Jon Tunheim

Staff:

Keri-Anne Jetzer

#### **I. CALL TO ORDER**

Chair Saint Clair called the meeting to order.

#### **II. APPROVAL OF MINUTES**

The meeting minutes are not ready, so this agenda item has been tabled until the next meeting.

#### **III. LEGISLATIVE BILLS**

Chair Saint Clair briefed members on his testimony to the Senate Ways & Means Committee on SB 5476. He mentioned an email from by Councilmember Lemley on the actions being taken by the City of Richland's City Council illustrated the foundation of the SGC's objection to the bill and the challenge its going to present

across the state as various justification start putting up a patchwork of responses to State v. Blake.

Members reviewed the status of legislative bills on which the SGC took a position. Senator Darneille provided additional information on some of the bills and explained the legislative process from now through the end of the session. She added that she didn't have much information on where the Blake bill was going to go but thought there might be a striker on SB 5476 that would include a referral of those under 21 to juvenile court instead of a gross misdemeanor. Judge Rumbaugh responded that the Supreme Court has called for an additional briefing on the motion to reconsider in Blake, pointing out that the legislative bill is shooting at a moving target. Kimberly Gordon said the answer to reconsider was filed yesterday and she sent to the link to Keri-Anne for distribution.

Senator Darneille noted that she was able to get into the Senate budget an increase of the SGC's administrative position to a full FTE. Chair Saint Clair thanked the Senator and said the additional support would be greatly utilized.

Chair Saint Clair asked Keri-Anne to be sure that all members are sent the email from Councilmember Lemley. There was discussion about how local governments are reacting to the Blake decision and the need for a public health approach to drug possession crimes.

Councilmember Young remarked that Washington has one of the worse behavioral health systems in the country. While it would be great to replace the criminal justice approach with a public health approach, he felt the reality is that it is not going to happen. He does not expect the Blake response to go well. What worried him is that when it doesn't go well, it will turn the public against it and making it that much more difficult to set up a replacement system that actually makes sense. Chair Saint Clair thought that many of Councilmember Young's comments were felt by others. He also wondered if the Legislature was putting out the right amount of funding necessary to stand up a public health approach. Senator Darneille gave examples of how the Legislature was investing behavior health money in the whole continuum and not just in the criminal justice system.

Tony Golik reported that there are a variety of opinions in WAPA regarding Blake. However, having no criminal justice response to drug possession is not an opinion that was well taken within WAPA. Although supportive of good arguments for different responses, he believed to have no criminal justice response was a mistake. And, regarding responses from cities and counties, he expressed a wish for them to try not to engage in a patchwork response.

Chair Saint Clair inquired if the Superior Court Judges Association (SCJA) had any discussions. Judge Shaffer replied that she was not aware of any discussions about an SCJA position on Blake. Judge Rumbaugh believed they are waiting for the dust to settle on Blake, although it's a given that the courts will need more resources to

address this case. Judge Houser noted the SCJA had been focused on the practical application of the case and how it's going to affect the day-to-day workload.

Chair Saint Clair commented that the Criminal Sentencing Task Force is working on an analysis that points out the disproportionality that has occurred in sentencing across the board. He observed that those numbers are pretty stark and depressing to see but they are still useful so system players can step forward to start addressing sentencing practices and charging practices.

#### **IV. PRETRIAL RELEASE**

Judge Rumbaugh noted that he was part of the Pretrial Reform Task Force which allowed his county to obtain a grant from the Arnold Ventures Group (AVG). He apprised members that the grant analysts are in the process of developing a risk assessment tool and they have also completed a thorough mapping of all the touch points in the system for people who become justice involved. The group is considering where to place offramps to keep people out of prison and evaluating the efficacy of alternatives to confinement. He offered to send that information to the membership. They are currently working on norming the assessment tool to their county population. In addition, work is being done to eliminate racial and gender bias.

The question Judge O'Donnell posed, and that Chair Saint Clair repeated, is does this work constitute an area of interest and importance to the SGC? That would then be followed by what the SGC should do and how can it use work that has already been done if it's determined that this is an area we should be focusing on.

Judge Shaffer commented that she liked both suggestions Judge O'Donnell made for work the SGC could do. Her thought was for the SGC to assemble the research and the recommendations that have been made from other groups, similar to what WSIPP has done. She did suggest that, if any other group is working on either of the topics, the SGC should reach out to them to see if they want to liaise. Kim Gordon asked the Judge how she viewed the SGC going about this. Would the members work on finding the research and information to bring and discuss, something that Keri-Anne could help us with? Judge Shaffer replied that with the limited staff support they have, the members would need to do the work of reaching out and bring the data back either by way of group work sessions or by way of sub work groups within SGC on each of the topics.

Keri-Anne pointed out that assessment evaluations are rather technical and since risk assessments are usually normed to a particular population, she wondered if an evaluation would be better handled by data analysts. Judge Shaffer replied that she thought looking at what is reliable in the assessments and to what extent can untoward effects like racially disparate outcomes be avoided. Assessment tools have a history of propagating racial disparity and not all of the assessment tools are good at predicting risk. In general, she thought the SGC could gather what guidelines should be used when adopting an assessment tool and then make recommendations for statewide standards.

Chair Saint Clair cited the work that Senator Pedersen talked about doing on the Uniform Pretrial Release and Detention Act and reiterated not wanting to duplicate work being done elsewhere but rather liaison or collaborate. He suggested a committee begin the research. Volunteers were: Judge Rumbaugh, Kimberly Gordon, Jon Tunheim, and DOC. Deputy Secretary Martin talked about DOC's assessment tools, the WA-One and the Static-99.

Kimberly Gordon recalled that King County looked closely at pretrial release issues and chose not to look at a risk assessment tool. Judge Shaffer responded the choice was primarily due to racial disparity. Kimberly wondered if it would be helpful to hear from King County about that decision. Jennifer Albright said she and Mike West from the King County Department of Adult and Juvenile Detention have done the work on vetting the pretrial tool and offered to ask Mike to speak to the membership.

**V. OTHER BUSINESS**

**VI. ADJOURNMENT**

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



5/14/2021

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Judge J. Wesley Saint Clair, Chair

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Date