



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

MEETING MINUTES

May 14, 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
Hon. Catherine Shaffer
Chief Cherie Harris
Hon. Josephine Wiggs-Martin
Tim Wettack
Jennifer Albright
Norrie Gregoire
Senator Jeannie Darneille
Jon Tunheim

Members Absent:

Senator Mike Padden
Rep. Lauren Davis
Rep. Skyler Rude
Kecia Rongen
Sonja Hallum
Kathleen Harvey
Tony Golik
Dep Secretary Julie Martin

Staff:

Keri-Anne Jetzer

Guest:

Mike West, King County Department of
Adult and Juvenile Detention

I. CALL TO ORDER

Chair Saint Clair called the meeting to order.

MOTION #21-46: APPROVE AGENDA

MOVED: Councilmember Lemley
SECONDED: Kimberly Gordon
PASSED: Unanimous

II. APPROVAL OF MINUTES

MOTION #21-47: APPROVE MINUTES FROM MARCH 2021 MEETING

MOVED: Judge Rumbaugh
SECONDED: Judge Houser
PASSED: Unanimous

MOTION #21-48: APPROVE MINUTES FROM APRIL 2, 2021 SPECIAL MEETING

MOVED: Kimberly Gordon
SECONDED: Councilmember Lemley
PASSED: Unanimous

MOTION #21-49: APPROVE MINUTES FROM APRIL 2021 MEETING

MOVED: Judge Rumbaugh
SECONDED: Judge Shaffer
PASSED: Unanimous

III. PRETRIAL RELEASE

Chair Saint Clair recapped part of the discussion after Judge O'Donnell's presentation on the work of the Pretrial Release Task Force. One of the questions during that discussion was about the use of pretrial risk assessment tools. Chair Saint Clair talked briefly about King County's work on an assessment tool and welcomed Mike West from King County's Department of Adult and Juvenile Detention.

Mike West reported that over the past ten years King County has been working on the development of an actuarial risk instrument tool that would predict risk and needs. He pointed out that when discussing a risk instrument, the first question should be "Risk of what?" as different risks will have different values to different persons. The King County tool assessed the risk of failure to appear, of any recidivism, of committing a new felony offense, of committing a violent offense, of a property offense, of a drug offense, and domestic violence offense.

Mike provided background on the various assessments that were created and how variables were chosen for the final tool. They are currently in the process of re-validating the current tool to look at what the tool predicted versus what the court decided and what the person's behavior was. He said the calculated risk scores are not included in the pretrial investigation report, an outcome of the same process used to collect information for the risk assessment that is provided to the court. This was requested by the bench.

Chair Saint Clair asked if the assessment tool ameliorates some of the disproportionality that enters the criminal justice system. Mike responded that at the outset it was decided that the tool should not worsen any racial disproportionality. To remove variables that were known to be disproportionate (criminal history score) cause the predictability of the tool to fall below an acceptable level, thus those variables remained. He added that the person's race is recorded but is not used in the assessment.

Chair Saint Clair thanked Mr. West for taking time to talk with the members about King County's work.

Chair Saint Clair thanked Judge Rumbaugh for providing a map and description of the pretrial system that Pierce County has been working on and asked the Judge to walk the members through it. Judge Rumbaugh began by saying the group engaged most of the principal stakeholders in the criminal justice system to provide input on where an individual who becomes involved in the criminal justice system has a touch point with one of the stakeholders. The idea was to look for offramps, opportunities to divert individuals from being put into the criminal justice system. He then walked through and discussed points on the map.

Chair Saint Clair informed members that Senator Pedersen has accepted assistance from the SGC on the Senate Law & Justice Committee's work during the interim on the Uniform Pretrial Release and Detention Act. The Pretrial Release committee has put a hold on their work in anticipation of the work with the Law & Justice Committee.

IV. EXAMINING WASHINGTON STATE'S SENTENCING GUIDELINES: A REPORT TO THE CRIMINAL SENTENCING TASK FORCE

Chair Saint Clair briefly touched on some of the results of this study and asked members to review the report. He believes the results will be part of the SGC's discussions in the future. Lauren Knoth from WSIPP will present on the study's findings at the June meeting.

V. LEGISLATIVE UPDATE

At the request of the Chair, Senator Darneille provided an overview of the session, including addressing racial disparities, the Blake decision, that many new members have criminal justice experience, and the use of virtual meetings.

The Senator commented on several of the bills listed in the Legislative bill summary document provided in the meeting materials, as well as the death in custody review bill and solitary confinement bills that were not in the report. She would like the SGC to consider the solitary confinement issue, noting the local and national data on the use of solitary confinement, the long-term negative impacts of solitary confinement, and the high amount of racial disproportionality of who gets assigned to solitary confinement.

Members discussed the impacts of the changes implemented during Covid-19 pandemic. It was agreed that not enough time has passed to make any determination, and that when the results are available, they may provide insight as to what sentence lengths should be, how long supervision needs to be, etc. It will be an opportunity for reevaluation in many areas, including those outside of the criminal justice system.

Kimberly Gordon asked if the Senator had any feedback for the SGC on the role it played in the Legislative process this year and any suggestions for future years. Senator Darneille thought the level of work the SGC did was amazing. She said that many legislators don't know a lot about the criminal justice system so it was really important the SGC weighed in on bills as it helped educate Legislators and the more

the SGC can grow into that role the better for everyone. Chair Saint Clair thanked the Senator for the feedback and said it was gratifying to hear that their advice was at least heard. He said it is important to engage in a model that is useful to the Legislature.

VI. OTHER BUSINESS

Senator Darneille commented about the additional funding for the SGC that will make Keri-Anne's position a fulltime position for the SGC. The SGC's work is so fundamental to issues in addressing racial inequity for the state. Chair Saint Clair remarked that the Senator's efforts are appreciated and that, along with Keri-Anne's work, will help the SGC to continue to be engaging and be a resource to the Legislature and others.

Chair Saint Clair inquired about the letter sent to the Legislature about additional representation on the SGC. Senator Darneille expressed appreciation for the letter, however, she reported that it was unfortunately misinterpreted. After holding confirmation hearings for nearly all of the twenty members, Legislative members felt that this request was too much too soon. Senator Darneille feels that additional conversations are needed to help clear up any misunderstandings about the request. She was appreciative of the prioritization of the potential positions that was included in the letter and offered to help create a vehicle to expand the SGC next year.

Chair Saint Clair informed members that the vacant Citizen – Victim Advocate position is still being worked on. Judge Shaffer asked if the prosecutors would be able to suggest people for the position since they work so closely with victim advocates. Jon Tunheim responded that a message was sent on the Washington Association of Prosecuting Attorney's list serve regarding this position and there seemed to be some interest. Keri-Anne commented that she contacted the Office of Crime Victim Advocates at the Department of Commerce and was provided with three organizations to contact. She reported that emails were sent to all three and she had heard back from two that they would pass on the recruitment to their network.

Chair Saint Clair added that Keri-Anne presented to the Criminal Sentencing Task Force (CSTF) on the history of the SRA and the presentation is available on the SGC's website.

The Chair pointed members to the document in the meeting materials that shows the SGC's position related to the changes in the Blake bill legislation. He admitted there will still be funding challenges as various jurisdictions address the impacts and recognized the importance of the retroactivity of the bill.

Chair Saint Clair informed members that the CSTF has been funded through the end of fiscal year 2022. Jon Tunheim reported that the CSTF is starting to focus its work on the sentencing grid using the information in the report completed by WSIPP. Senator Darneille inquired when the CSTF would start looking at the juvenile grid. Jon reported that the work request only referred to the adult sentencing grid. Senator

Darneille expressed concern about potential changes to the adult grid that would create a lower penalty for adults than what is found on the juvenile grid. Norrie Gregoire remarked that he is fearful that without a little bit of authority of the courts to nudge kids into assessment and evaluation further upstream, some kids will be lost. He feels that a misdemeanor or gross misdemeanor offense is sometimes just enough to pump the brakes on the behavior and get the kid into some wraparound services.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



6/11/2021

Judge J. Wesley Saint Clair, Chair

Date