



STATE OF WASHINGTON

**SENTENCING GUIDELINES COMMISSION**

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

**MEETING MINUTES**

**January 14, 2022 9:00am – 12:00pm**

**Zoom**

Members Present:

Hon. J. Wesley Saint Clair, Chair  
Tim Wettack  
Rep. Gina Mosbrucker  
Hon. Stanley Rumbaugh  
Councilmember Phillip Lemley  
Kimberly Gordon  
Hon. Josephine Wiggs-Martin  
Jennifer Albright  
Secretary Cheryl Strange (proxy: Julie Martin)  
Kecia Rongen  
Hon. William Houser  
Hon. Sharonda Amamilo  
Kathleen Harvey  
Norrie Gregoire  
Gina Cardenas  
Tony Golik  
Greg Link

Members Absent:

Senator Mike Padden  
Jon Tunheim  
Marc Baldwin  
Chief Cherie Harris  
Rep. Tarra Simmons  
Senator Claire Wilson  
Councilmember Derek Young

Staff:

Keri-Anne Jetzer

**I. CALL TO ORDER**

Chair Judge Saint Clair called the meeting to order.

**II. APPROVAL OF MINUTES**

**MOTION #22-06: APPROVE MINUTES FROM DECEMBER 2021 MEETING**

**MOVED:** Councilmember Lemley

**SECONDED:** Tony Golik

**PASSED:** Passed

**ABSTAIN:** Judge Saint Clair

**MOTION #22-07: APPROVE MINUTES FROM JANUARY 7, 2022, SPECIAL MEETING**

**MOVED:** Tim Wettack

**SECONDED:** Judge Houser

**PASSED:** Passed

**ABSTAIN:** Kimberly Gordon, Jennifer Albright, Tony Golik, Julie Martin

**III. PRETRIAL CREDIT WORK GROUP UPDATE**

Chair Judge Saint Clair reported that the work group met in December and will be meeting again in January to continue its work. He noted that the work group is still missing representation from the prosecution. Tony Golik said he would speak with Jon Tunheim to try to find a deputy prosecuting attorney to attend and if one couldn't be found, he would try to attend the next meeting.

**IV. CRIMINAL CODE REVIEW COMMITTEE**

Keri-Anne explained that the SGC approved a motion in November to repeal unranked offenses with no convictions in the past 20 years. The question being asked is how members would like to handle unranked offenses that have no convictions in under 20 years. She added that many of these offenses became effective less than 20 years ago.

Jennifer Albright noted that the data is only for adult convictions and that youth may have been adjudicated for some of those offenses. Tony Golik suggested tabling this discussion until the juvenile adjudication frequency can be added to the data. Clela Steelhammer added in the chat that these data are for convictions only and don't consider anyone who may have been charged but plead to a difference offense.

Judge Wiggs-Martin requested that the committee be allowed to review the remaining unranked offenses, noting that they would have become effective within the past 19 years. The members agreed.

**V. REVIEW OF LEGISLATIVE BILLS**

**[HB 1692](#) – Eliminating Drive-By Shooting as Aggravating Circumstance for Murder 1**

Judge Saint Clair introduced retired Judge Michael Heavey with Judges For Justice who spoke to the members about House Bill 1692. Keri-Anne briefed members on the high points of the bill. Judge Heavey then told members about the history and purpose of the drive-by aggravating circumstance.

Members discussed all the aggravating circumstances related to Murder 1. There was conversation about how infrequently drive-by shooting had been used and the possibility of removing the drive-by shooting aggravating circumstance from Murder 1 and instead making it an aggravating factor for exceptional sentences under RCW 9.94A.535.

Kimberly Gordon suggested there were ways to capture this behavior in other crimes or sentencing provisions. She gave examples of adding assault for every person that was present and experienced fear, a reckless endangerment offense, or a drive-by shooting offense. That there could be firearm enhancements for every additional assault or aggravating factors for multiple victims or multiple offenses. If this aggravating circumstance was eliminated, using these other options, Kimberly wondered if a judge would be stripped of the ability of imposing a very long, if not effectively a life sentence.

Judge Saint Clair appreciated the conversation even though, he added, this bill would probably not get a hearing. He thanked Judge Heavey for his presentation to the SGC.

Judge Heavey thought it would be helpful in the next legislative session if the SGC voted to support the language of this bill.

**MOTION #22-08: SGC TO RECOMMEND THE AGGRAVATING CIRCUMSTANCE OF DRIVE-BY BE ELIMINATED FROM MURDER 1 OFFENSE AND ADDED TO THE LIST OF AGGRAVATORS FOR AN EXCEPTIONAL SENTENCE UNDER RCW 9.94A.535**

**MOVED:** Tim Wettack  
**SECONDED:** Judges Wiggs-Martin  
**PASSED:** Withdrawn

There was discussion about including the term of ‘moving vehicle’ in the language or whether an aggravator is needed for this as there is already a Drive-By Shooting class B offense. It was noted that there is no aggravator for shooting in a mall, in a school, or in a bus.

Tim Wettack asked if a few of the members would be interested in meeting to discuss the details and bring a recommendation back to the SGC. Judge Rumbaugh, noting that this bill would not be moving this session, offered to meet with Kimberly Gordon to work on a motion for the February meeting that will address the removal of the aggravating circumstance to Murder 1 and incorporate it in to 9.94A.535. Judge Heavey was invited to participate in that discussion. Tim withdrew his motion.

**[HB 5793](#) – Concerning stipends for low-income or underrepresented members on state boards, commissions, and similar groups**

Judge Wiggs-Martin expressed how critically important this bill is in expanding diversity of representation, including diversity of experience, which are important perspectives to have.

**MOTION #22-09: SUPPORT HB 5793**

**MOVED:** Judge Wiggs-Martin  
**SECONDED:** Tony Golik  
**PASSED:** Passed  
**ABSTAIN:** Julie Martin

**HB 1681 – Modifying requirements for vacating conviction records**

Tony Golik suggested there was a lot to the bill and that members may need more time to digest all the changes.

Judge Rumbaugh said a SCJA committee on which he sits reviewed the bill and didn't have concerns. He noted there is always a certain amount of pushback when judges are told their discretion will be removed and then required to do this or that. He said his committee did agree that the payment of LFOs as a prerequisite to start the five-year wait period was not necessary.

No motion was made.

**HB 5572 – Implementing the recommendations of the WA State Internet Crimes Against Children Task Force**

Greg Link expressed concern about minors being treated the same as adults, that placing the offenses on the adult sentencing grid would require the youth to be declined to the adult system. He also expected that these offenses would not be prosecuted very frequently. Judge Wiggs-Martin agreed with his comments. She said there is a difference between youth and adults dealing in sexual stuff and they should not be treated the same. Judge Amamilo suggested this ranking goes against what is known about brain science in youth.

There was discussion about whether the SGC takes positions or makes comments about definitions of offenses. It was suggested that the SGC not take positions on substantive criminal law changes such as creation of a crime or changes to elements of a crime. Judge Saint Clair commented that his experience has been that the substantive law is under the purview the Legislature, but if there are sentencing issues, the SGC may take a position on those.

**MOTION #22-10: SGC NOT COMMENT ON CREATION OF OFFENSES IN HB 5572 BUT OPPOSE PLACING THE JUVENILE OFFENSES ON THE ADULT SENTENCING GRID**

**MOVED:** Greg Link  
**SECONDED:** Judge Amamilo  
**PASSED:** Passed (No = 1)  
**ABSTAIN:** Julie Martin

**HB 1874 – Reducing barriers to professional licensure for individuals with previous arrests or convictions**

Members felt that this issue is a barrier to reentry and that barriers to reentry make the community unsafe. This is also a consequence of a sentence that has been imposed so the SGC feels it falls within its purview.

**MOTION #22-11: SUPPORT HB 1874**

**MOVED:** Judge Wiggs-Martin  
**SECONDED:** Judge Rumbaugh  
**PASSED:** Passed

**HB 1678 – Creates a domestic violence offender registry**

Kimberly Gordon contemplated the motivation in creating this registry. She remembered a conversation about modification of the sex offender registry and thought there was information that the registry was not fulfilling the public safety goals for which it was created. She wasn't sure how this registry would be different.

Judge Wiggs-Martin expressed two concerns about the registry: 1) the more scarlet letters put on a person, the more difficult it is for a person to move forward, and more barriers come up for people on registries, and 2) it creates new crimes such as not complying with the registry. She, too, wondered the motivation behind the bill.

Tony Golik reported that both he and Jon Tunheim have concerns about registries in general, but they have not spoken to WAPA about its position yet.

Just Saint Clair added that the protocols of getting on and off a registry can be very bureaucratic and once one is on it, getting off is difficult. There are many other impacts that come along with being on a registry.

Judge Wiggs-Martin thought, since a hearing has not yet been scheduled, it would be prudent to table the discussion. Judge Saint Clair agreed and tabled the discussion until the next meeting on February 21, 2022.

**MOTION #22-12: OPPOSE HB 1678**

**MOVED:** Kimberly Gordon  
**SECONDED:** Greg Link  
**PASSED:** Tabled

Chair Judge Saint Clair thanked members for their input. He thinks people appreciate hearing the voice of the SGC on bills and doesn't feel it is an exercise in futility and that the Legislature listens to its responses.

**VI. OTHER BUSINESS**

**VII. ADJOURNMENT**

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



2/11/2022

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Judge J. Wesley Saint Clair, Chair

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Date