



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

Helen Sommers Building, PO Box 43124 • Olympia, Washington 98504-3124 • (360) 688-8511

MEETING MINUTES

March 11, 2022 9:00am – 12:00pm

Zoom

Members Present:

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

Members Absent:

Senator Mike Padden
Chief Cherie Harris
Rep. Tarra Simmons
Marc Baldwin
Norrie Gregoire
Rep. Gina Mosbrucker
Jon Tunheim

Staff:

Keri-Anne Jetzer

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order.

II. APPROVAL OF MINUTES

MOTION #22-27: APPROVE MINUTES FROM FEBRUARY 2022 MEETING

MOVED: Judge Rumbaugh

SECONDED: Kimberly Gordon

PASSED: Passed

III. PRESENTENCE CREDIT WORK GROUP UPDATE

Judge Saint Clair provided a quick history as to the purpose of the work group and briefed members on its continuing progress.

IV. STATUS UPDATE ON LEGISLATIVE BILLS

Keri-Anne reviewed a document containing the status of the bills the SGC voted on or were interested in during the 2022 Legislative Session.

Senator Wilson added that she and Rep. Peterson intend to continue to work with DOC and other stakeholders on the solitary confinement issue during the interim. She informed members that parts of SB 5592 had been incorporated into HB 1818.

Judge Saint Clair asked Senator Wilson to explain the process of the Senate “X” file. The Senator explained that the file contains bills that made it through the process but did not make it to the floor. These bills may be brought back during the next Legislative session, sometimes with new numbers in the case of a new biennium, to continue with the process without having to recreate the bills from scratch.

Judge Saint Clair expressed interest in continuing the work on HB 1715 and getting those additional perspectives added to the SGC membership.

V. CRIMINAL CODE REVIEW COMMITTEE

Keri-Anne reminded members that the Child Selling offense was tabled from last meeting. She was able to get background information on that one offense in case members were interested in revisiting it at this meeting.

There was discussion how this offense may exist to advise what behavior is criminal. Judge Wiggs-Martin noted that this offense is only being discussed because it missed by one conviction falling under the SGC’s recommendation from the December 2021 meeting that unranked offenses with no convictions in the past 20 years be repealed.

Kimberly Gordon wondered if there was another way to address this behavior without adding complication to the code.

Judge Houser suggested, based on the emphasis on human trafficking, that the SGC continue to support an offense that makes it illegal to sell a child. There are some crimes that are abhorrent and public policy requires them to be on the books. He believes this is one of those offenses.

If the SGC chooses to keep Child Selling as an unranked felony, Judge Wiggs-Martin then suggested that Child Buying be removed from a previous blanket motion to repeal and remain as an unranked felony to maintain consistency even though that have not been any convictions.

MOTION #22-28: RECOMMEND CHILD SELLING AND CHILD BUYING (RCW 9A.030(a) & (b)) REMAIN AS UNRANKED FELONIES

MOVED: Tony Golik
SECONDED: Judge Houser
PASSED: Passed

Tony Golik conveyed that during the committee discussions, members believed Animal Fighting should be ranked to make it more serious at a Seriousness Level 3. He remarked that a person sentenced to a SL 3 would need a criminal history score of 2 to have a sentence range that would be similar to that of an unranked offense.

Judge Amamilo wondered, instead of increasing jail time, if other alternatives could be mandated, such as community service, training, or other rehabilitative approaches. Tony Golik agreed with the use of alternatives, which, he noted, can happen regardless of what ranking the offense has.

Judge Houser stated that, as a class C felony, the statutory maximum penalty allowed is 60 months. At the suggested SL 5, the maximum penalty under the sentencing guidelines would be 96 months, which is greater than the actual legal maximum. That is a situation that bothers him. That would also be the situation if it was ranked at SL 3, so he wasn't sure where he would rank it. Judge Saint Clair informed Judge Houser that one of the outcomes of the Criminal Sentencing Task Force is an effort to make sure the maximum penalties align. The Task Force is working at incorporating that type of logic into the sentencing grid.

MOTION #22-29: RECOMMEND RANKING ANIMAL FIGHTING (RCW 16.52.117(2)(a)) AT SERIOUSNESS LEVEL 5

MOVED: Tony Golik
SECONDED: Councilmember Lemley
PASSED: Failed

MOTION #22-30: ACCEPT CRIMINAL CODE REVIEW COMMITTEE RECOMMENDATION TO RANK ANIMAL FIGHTING (RCW 16.52.117(2)(a)) AT SERIOUSNESS LEVEL 3

MOVED: Judge Wiggs-Martin
SECONDED: Judge Amamilo
PASSED: Passed

Tony Golik stated that he has heard animal cruelty is serious because a helpless and defenseless animal is intentionally hurt, rather than because it may lead to other behaviors that impact public safety. He emphasized that Animal Cruelty 1 is related to intentional infliction of pain.

Judge Wiggs-Martin pointed out the sentence lengths judges had previously issued for Animal Fighting (mostly under 4 months) compared to the sentence lengths for

Animal Cruelty 1 (mostly under 12 months). Although she hadn't decided a position on the motion, she remarked that a higher ranking on Animal Cruelty 1 compared to that of Animal Fighting would be consistent based on what the sentencing data shows.

Judge Houser reminded members that Animal Cruelty 1 with Sexual Conduct or Contact is a SL 3 offense.

David Trieweiler reported that the committee suggested the SL 3 ranking as it offered a balance between the seriousness of the offense and a too punitive system.

Keri-Anne reminded members that Animal Cruelty 2 is a gross misdemeanor, which offers a sentence range of 0 to 12 months, the same amount as the current unranked Animal Cruelty 1 felony. Tony Golik suggested that intentional cruelty (Animal Cruelty 1) should be a more serious offense and not have the same 0 to 12 month range as Animal Cruelty 2 as the offenses are about very different conduct.

Kimberly Gordon thought it was inaccurate to say that ranking this at a SL 3 is a reduction in penalty. She suggested it is a more nuanced approach. Currently, a person may not go into custody at all for this offense, but if it is ranked at a SL 3, every person convicted will go into custody because the bottom of the standard range is one month.

MOTION #22-31: RECOMMEND RANKING ANIMAL CRUELTY 1 (RCW 16.52.205(1)&(2)) AT SERIOUSNESS LEVEL 5 AND RAISING TO A CLASS B OFFENSE

MOVED: Tony Golik
SECONDED: Councilmember Lemley
PASSED: Failed
ABSTAIN: Kecia Rongen

MOTION #22-32: ACCEPT CRIMINAL CODE REVIEW COMMITTEE RECOMMENDATION TO RANK ANIMAL CRUELTY 1 (RCW 16.52.205(1)&(2)) AT SERIOUSNESS LEVEL 3

MOVED: Judge Houser
SECONDED: Judge Amamilo
PASSED: Passed

MOTION #22-33: ACCEPT CRIMINAL CODE REVIEW COMMITTEE RECOMMENDATION TO REPEAL RCW 16.52.320

MOVED: Judge Houser
SECONDED: Councilmember Lemley
PASSED: Passed
ABSTAIN: Tony Golik, Kimberly Gordon

**MOTION #22-34: ACCEPT CRIMINAL CODE REVIEW COMMITTEE
RECOMMENDATION TO REPEAL RCW 19.48.110(1)(b)**

MOVED: Judge Houser
SECONDED: Councilmember Lemley
PASSED: Passed
ABSTAIN: Kimberly Gordon

Councilmember Lemley asked about situations when an adult refuses acceptance of a youth released from state or county facility. Judge Wiggs-Martin explained that when a juvenile is released from a facility, if the parent does not pick them, that would be situation when this statute could be applied. Judge Saint Clair added that otherwise there is no mechanism to make a parent pick up their child, and the dependency system doesn't have same force of law that the criminal system has.

Judge Houser said that his court has a strong civil contempt calendar for nonpayment of child support, including contempt with jail time. It is a fairly quick process in getting people in front of the court and providing a sanction. It also gets people to at least take financial responsibility for their family. He commented that the Family Abandonment statute seems as if it would be difficult to prove.

Judge Saint Clair commented that Judge Amamilo, who had to leave the meeting early, has great experience in the dependency area as part of her practice before coming to the bench. Kimberly Gordon suggested moving this to the parking lot until Judge Amamilo was present.

Members discussed whether this offense is duplicative of RCW 9A.60.020. The result was that it wasn't clear if this behavior was included in RCW 9A.60.020.

**MOTION #22-35: ACCEPT CRIMINAL CODE REVIEW COMMITTEE
RECOMMENDATION TO LEAVE RCW 29A.48.230(1) AS
UNRANKED FELONY**

MOVED: Tony Golik
SECONDED: Judge Houser
PASSED: Passed
ABSTAIN: Kimberly Gordon

Chair Judge Saint Clair suggested picking up the rest of the 3/11/22 list at the April meeting.

VI. OTHER BUSINESS

Keri-Anne informed members that, because the SGC bylaws do not restrict Legislative members from making or seconding a motion, they have the right to do so. However, as mentioned in statute, they are not allowed to vote on motions.

Judge Saint Clair reminded members that Dr. Johnson of the Office of Equity will join the April and May meetings to offer some training as members continue to engage in

conversations about equity, inclusion, and race. Studies continue to show that racism is present in our systems. It is helpful to work on our language, how we talk about it without people moving into immediate defensive mindsets, how to we engage in conversations in an open way, and how do we do it so we don't harm people.

Kimberly Gordon announced the American Equity and Justice Group will have its formal launch on May 17th. She will send additional information closer to that date.

Chair Judge Saint Clair expressed his appreciation to members for the attention to detail and the seriousness that they continue to give to the work of the SGC.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



4/8/2022

Judge J. Wesley Saint Clair (Ret), Chair

Date