



STATE OF WASHINGTON

**SENTENCING GUIDELINES COMMISSION**

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

**MEETING MINUTES**

**December 9, 2022 9:00am – 12:00pm**

**Zoom**

Members Present:

Hon. J. Wesley Saint Clair, Chair  
Kimberly Gordon  
Hon. Sharonda Amamilo  
Secretary Cheryl Strange  
Jennifer Albright  
Greg Link (proxy: Kimberly Gordon)  
Marc Baldwin  
Kathleen Harvey  
Kecia Rongen  
Tim Wettack  
Hon. William Houser  
Hon. Stanley Rumbaugh  
Hon. Josephine Wiggs

Members Absent:

Senator Mike Padden  
Tony Golik  
Chief Ken Thomas  
Gina Cardenas  
Rep. Tarra Simmons  
Councilmember Derek Young  
Norrie Gregoire  
Jon Tunheim  
Rep. Gina Mosbrucker  
Senator Claire Wilson

Staff:

Keri-Anne Jetzer

**I. CALL TO ORDER**

Chair Judge Saint Clair called the meeting to order.

**II. APPROVAL OF MINUTES**

**MOTION #22-64: APPROVE THE MINUTES FROM NOVEMBER 2022 MEETING**

**MOVED:** Judge Rumbaugh  
**SECONDED:** Marc Baldwin  
**PASSED:** Passed  
**ABSTAINED:** Greg Link

### III. LEGISLATIVE COMMITTEE/SPECIAL MEETINGS

Keri-Anne reminded members the SGC creates a Legislative Committee for the purpose of providing an initial review of legislative bills that the SGC may wish to discuss and potentially take a position on. Chair Judge Saint Clair and other members were in support of continuing the process that the SGC has been taking in engaging in the legislative session.

Keri-Anne asked for volunteers for the Thursday morning committee. Generally, she said, the committee has included a judge, a prosecutor, a defense attorney, and any others who wish to volunteer.

Volunteers: Kecia Rongen, Kimberly Gordon, Judge Rumbaugh, Jennifer Albright, Judge Amamilo, DOC's Legislative Liaison.

Keri-Anne said she would reach out to Jon Tunheim and Tony Golik to see if either of them could participate on the committee. She will also send out calendar placeholder notifications for the Legislative Committee meetings and for the full SGC Special meetings on Fridays at noon during the first part of the legislative session.

### IV. CRIMINAL CODE REVIEW COMMITTEE

#### Review Penalties – Manufacture, Distribute, or Possess with Intent - Cannabis

Keri-Anne presented the additional information that members requested about these sentences and gave a brief review of prior discussions related to this recommendation.

Judge Rumbaugh observed the appellate courts have been reluctant to establish a quantity threshold for possession with intent to distribute. He thought that should be discussed. Kimberly Gordon agreed but didn't feel she possessed the knowledge to suggest a reasonable threshold amount. Keri-Anne suggested this could be noted along with the recommendation to the Legislature.

#### **MOTION #22-65: ACCEPT COMMITTEE'S RECOMMENDATION AND SUGGEST ESTABLISHING A THRESHOLD AMOUNT FOR THIS OFFENSE**

**MOVED:** Judge Houser  
**SECONDED:** Kimberly Gordon  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange

#### Advise the Legislature of a need for a statewide process to evaluate drug courts

After the November SGC meeting, a member provided Keri-Anne with a suggested modification to the recommendation based on the conversation during that meeting.

There was discussion about best-practices and recommendations from the National Association of Drug Court Professionals. There were suggestions to add the frequency of the evaluations and that outcomes should be just and fair. Since many of the drug

courts in the state have not been evaluated, Judge Wiggs thought it was important to get this language right in terms of what the SGC's concerns are and what is being asked of the Legislature. Kimberly Gordon offered to work with Judge Wiggs on the language.

**MOTION #22-66: ACCEPT COMMITTEE'S RECOMMENDATION AS MODIFIED**

**MOVED:** Kimberly Gordon  
**SECONDED:** Judge Houser  
**PASSED:** **Withdrawn**  
**ABSTAINED:** Secretary Strange

RCW 9.94.041(1) and (2) – Possession of Controlled Substance by Prisoner (State and County/Local Facilities)

Keri-Anne reminded members of the previous discussions related to these two unranked offenses.

There was discussion that the difference between this felony and the current misdemeanor level for controlled substance is based on location of the person and a comment about the need of services for the incarcerated with substance use disorders.

**MOTION #22-67: ACCEPT COMMITTEE'S RECOMMENDATION TO MAKE RCW 9.94.041(1) A MISDEMEANOR FOR CONTROLLED SUBSTANCE ONLY. LEAVE CELL PHONE AND OTHER TELECOM DEVICES AS UNRANKED FELONY**

**MOVED:** Kimberly Gordon  
**SECONDED:** Jennifer Albright  
**PASSED:** Passed

**MOTION #22-68: ACCEPT COMMITTEE'S RECOMMENDATION TO MAKE RCW 9.94.041(2) A MISDEMEANOR FOR CONTROLLED SUBSTANCE ONLY. LEAVE CELL PHONE AND OTHER TELECOM DEVICES AS UNRANKED FELONY**

**MOVED:** Kimberly Gordon  
**SECONDED:** Jennifer Albright  
**PASSED:** Passed

RCW 9.94.045 – Possession of Controlled Substance in Prison by Non-prisoner

No members were opposed to the committee's recommendation to leave this as an unranked felony and thus, **by general consent, the recommendation was accepted.**

RCW 26.20.030 – Family Abandonment

Keri-Anne reviewed previous discussions related to this offense.

**MOTION #22-69: ACCEPT COMMITTEE’S RECOMMENDATION TO REPEAL THIS FELONY**

**MOVED:** Kimberly Gordon  
**SECONDED:** Judge Amamilo  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange, Judge Wiggs

RCW 9A.76.023(2)(b) – Disarming a Law Enforcement or Corrections Officer and Firearm is Discharged

Keri-Anne discovered several convictions for this offense and informed members that this offense had been included in the blanket motion made on 11/12/21 to repeal any offenses with zero offenses in the past 20 years.

**MOTION #22-70: REMOVE RCW 9A.76.023(2)(b) FROM 11/12/21 BLANKET MOTION TO REPEAL**

**MOVED:** Judge Saint Clair  
**SECONDED:** Judge Wiggs  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange

Keri-Anne noted that the SGC did vote to rank RCW 9A.76.023(2)(a) at a SL 3 or higher to make it equal with RCW 9A.36.031(3)(g) (Assault 3). The difference between (2)(a) and (2)(b) is the discharge of the weapon. Judge Wiggs felt it is important for the SGC’s recommendations to be consistent. Members reviewed offenses at SL 4 and 5.

Since the SGC ranked (2)(a), Judge Saint Clair would like the SGC to also discuss ranking (2)(b) but at another time.

**MOTION #22-71: ACCEPT COMMITTEE’S RECOMMENDATION TO RANK THIS FELONY**

**MOVED:** Judge Wiggs  
**SECONDED:** Judge Saint Clair  
**PASSED:** Passed

RCW 9A.88.010(2)(c) – Indecent exposure to a person 14+ (subsequent or prior sex offense)

Keri-Anne found 148 convictions for this offense however, they were for pre-1999 convictions when the offense was unranked. The offense became ranked as of 1999. She noted this because it was included in the 11/12/21 blanket motion to repeal.

**MOTION #22-72: REMOVE RCW 9A.88.019(2)(c) FROM 11/12/21 BLANKET  
MOTION TO REPEAL**

**MOVED:** Judge Saint Clair  
**SECONDED:** Judge Wiggs  
**PASSED:** Passed  
**ABSTAINED:** Kimberly Gordon

**MOTION #22-73: ACCEPT COMMITTEE’S RECOMMENDATION TO  
LEAVE AS UNRANKED ALL OFFENSES NOTED ON  
PAGES 42-148 ON THE 12/9/22 UNRANKED REPORT**

**MOVED:** Judge Wiggs  
**SECONDED:** Judge Saint Clair  
**PASSED:** Passed  
**ABSTAINED:** Kimberly Gordon, Greg Link, Secretary Strange

**MOTION #22-74: ACCEPT THE COMMITTEE’S RECOMMENDATION TO  
REPEAL ALL OFFENSES NOTED ON PAGES 29-41 ON  
THE 12/9/22 UNRANKED REPORT**

**MOVED:** Judge Saint Clair  
**SECONDED:** Kimberly Gordon  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange, Judge Wiggs

**MOTION #22-76: ACCEPT THE COMMITTEE’S RECOMMENDATIONS  
REGARDING SERIOUSNESS LEVEL RANKING AND  
CLASSIFICATION AS NOTED FOR OFFENSES ON  
PAGES 12-15 ON THE 12/9/22 UNRANKED REPORT**

**MOVED:** Judge Saint Clair  
**SECONDED:** Marc Baldwin  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange, Judge Amamilo, Kimberly Gordon, Greg Link

RCW 29A.84.140 – Unqualified voting registration

**MOTION #22-77: ACCEPT THE COMMITTEE’S RECOMMENDATION TO  
REPEAL RCW 29A.84.140**

**MOVED:** Kimberly Gordon  
**SECONDED:** Kathleen Harvey  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange, Judge Amamilo, Judge Wiggs

RCW 9A.60.070 – Issuing a false academic credential

There was discussion on the different treatment toward people who use a false credential as opposed to ones who create a false credential. Judge Amamilo extended the idea of a civil penalty instead of a criminal penalty. Kimberly Gordon liked that

idea and thought it should extend to the user of false credentials as well, thereby, moving from a criminal penalty to a civil penalty.

**MOTION #22-78: ACCEPT THE COMMITTEE’S RECOMMENDATION TO REPEAL RCW 9A.60.070 AND REPLACE WITH A CIVIL PENALTY FOR BOTH ISSUING A FALSE ACADEMIC AND FOR KNOWINGLY USING OF A FALSE ACADEMIC CREDENTIAL (GROSS MISDEMEANOR)**

**MOVED:** Judge Amamilo  
**SECONDED:** Kimberly Gordon  
**PASSED:** Passed  
**ABSTAINED:** Secretary Strange, Judge Wiggs

**V. OTHER BUSINESS**

Tim Wettack talked about visiting institutions. He was not of the opinion that conducting a meeting within a prison is a good idea, but rather that the purpose would be to interface with incarcerated individuals and get their perspective on things. Chair Judge Saint Clair agreed that the focus should be to engage with people, rather than hold a meeting. Secretary Strange welcomed this idea. She felt it would let incarcerated individuals know there is an interest in them and what is happening for them. Judge Saint Clair said the SGC would investigate this for the upcoming year.

**VI. PUBLIC COMMENT**

There were no members of the public in attendance

**VII. ADJOURNMENT**

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



2/10/23

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Judge J. Wesley Saint Clair (Ret), Chair

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Date