



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

MEETING MINUTES

October 13, 2023 9:00am – 12:00pm

1500 Jefferson Building

Olympia, WA 98516

And Zoom

Members Present:

Hon. J. Wesley Saint Clair, Chair

Greg Link

Hon. Sharonda Amamilo

Secretary Cheryl Strange

Jon Tunheim

Kecia Rongen

Kimberly Gordon

Hon. Josephine Wiggs

Rep. Gina Mosbrucker

Commissioner Tye Menser

Hon. Jeffrey Swan

Members Absent:

Tony Golik

Tim Wettack

Rep. Tarra Simmons

Jennifer Albright

Marc Baldwin

Senator Claire Wilson

Norrie Gregoire

Gina Cardenas

Judge Karen Donohue

Judge Veronica Galván

Staff:

Keri-Anne Jetzer

Dr. Lauren Knoth-Peterson, PSPRC

Guests:

Brad Meryhew, SOPB Chair

Richard Torrance, SOPB Vice-Chair

Whitney Hunt, SOPB Coordinator

Christian Brown, WAPA

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order

II. INTRODUCE NEW COMMISSION MEMBERS

Chair Judge Saint Clair welcomed new member Judge Jeffrey Swan. The Chair noted that the other new members, Judge Donohue and Judge Galván, were unable to attend today's meeting. He also noted that, although Commissioner Menser is not a new participant in the SGC meetings, he is now an official member.

Judge Saint Clair welcomed SOPB Chair Brad Meryhew and Vice-Chair Rick Torrance who were in attendance to present on the re-ranking work the SOPB completed for the SGC. He also welcomed Dr. Lauren Knoth-Peterson as the newest member of the OFM Public Safety Policy and Research Center who will be providing assistance to the SGC and the SOPB.

III. APPROVAL OF MINUTES

MOTION #23-43: APPROVE JUNE 9, 2023, MEETING MINUTES

MOVED: Judge Saint Clair

SECONDED: Rep. Mosbrucker

PASSED: Passed

ABSTAIN: Judge Wiggs

IV. PROPOSED CHANGE TO BYLAWS

Keri-Anne explained that the bylaws directed that subcommittees will have meeting minutes taken and provided. The proposed change would be to change ‘meetings’ to ‘notes’ to reflect the level of staffing available for this work. There is a difference in their meaning, and this part of the bylaws was created when the SGC had 10+ office staff. As the sole staff person for the SGC since 2011, Keri-Anne provides notes for subcommittees but not minutes due to time constraints. This change would apply to minutes for subcommittees only, not for full SGC meetings.

MOTION #23-44: APPROVE CHANGE TO BYLAWS AS DESCRIBED

MOVED: Judge Saint Clair

SECONDED: Secretary Strange

PASSED: Passed

V. RE-RANKING PROJECT

Keri-Anne provided a recap on agreed upon guiding principles, the scoring rules applied to the proposed grid, and Rep. Goodman’s request for minor adjustments only, for members to look for ranges that comport most closely with current practice and offer policy decisions when that is not the case.

Dr. Knoth-Peterson apprised members of minor changes to the grid formulas for seriousness levels 10-13 and 14-16 that arose from discussions of the Class A subcommittee.

Chair Judge Saint Clair asked if there was a request from Rep Goodman to look at disparities. Dr. Knoth-Peterson replied that because the subcommittees had to start their discussions immediately after receiving the request, it didn’t allow time to conduct thorough disproportionality research. A little bit of disparate data was provided on sentence lengths to the subcommittees. However, she admitted it doesn’t tell much because the sentence length could be impacted by many other things, such as criminal history score. She said a better analysis would be to look at individuals who are subjected to the same standard range. She will try to provide some aggregate level

analysis on what the changes in the rankings may have on different populations. Kimberly Gordon remarked that the conviction data that was provided did assist in some discussions for the Class A subcommittee.

SOPB Chair Brad Meryhew talked about the process and discussions that took place in the SOPB meetings. He noted that this project was difficult for the SOPB members. Traditionally, they are given a year to complete a project and spend the first three to four months listening to experts, finding areas of agreement, and moving toward each other in an understanding of the topic. That opportunity was not available this time. He said five organizations of the 13 on the SOPB chose to abstain from voting at all, which left a voting pool of six. He went on to highlight some of the issues SOPB members dealt with, the elimination of the multipliers being one of those issues.

SOPB Chair Meryhew asked Rick Torrance, SOPB Vice-Chair and representative of the Office of Crime Victim Advocacy, to comment. Rick agreed with Chair Meryhew about the challenges of this project. His coalition did not want to send a message that they supported reducing either the minimum or the maximum sentencing ranges without research that concluded that was the right thing to do.

SOPB Chair Meryhew asked Christian Brown who represented WAPA during this project to comment. Christian reported this project was more about looking at grids and raw numbers and less about policy discussion. He agreed with Vice-Chair Torrance about what the policy message would reflect when the outcome is lowering numbers without any rationale.

SOPB Chair Meryhew talked about the SOPB's work on the offense of Failure To Register and its recommendations as published in a prior report.

Chair Judge Saint Clair acknowledged the project's time constraint and reminded everyone that it is still a *proposed* grid. He believed an iterative process will get everyone to a change model and this was one iteration in that process.

Rep. Mosbrucker stated that there is already public concern about people convicted of sex offenses being released early and being able to justify such a change is critically important.

Keri-Anne brought into the Zoom room participants from the subcommittees; Jason Walker, WAPA; Joanne Smieja, Statewide Family Council; Gail Brashear, Previously Incarcerated Member; and Chief Brian Smith, WASPC.

Keri-Anne briefed members on the document containing offenses listed by their recommended seriousness levels. Lauren briefed members on the data reflecting the change in sentence from the current seriousness level on the current grid to the recommended seriousness level on the proposed grid.

There was discussion about the use of Determinate Plus sentencing on Rape 1 offenses. Greg Link asked Kecia Rongen if the minimum term dictates the ISRB's decision-making or time that might be added. Kecia replied that the minimum term only sets when the ISRB first reviews a case. There are many dynamic factors that are taken into consideration when determining if someone is released, she said. Greg inquired if changes to the minimum terms would change ISRB's decision-making in any appreciable way? Kecia replied that she did not think it would change their decision-making, which is focused on whether the person is safe to be released into the community.

Kimberly Gordon stated that the Class A subcommittee recommended ranking Assault 1 and Assault of a Child 1 similarly, however, she observed that the SOPB did the opposite for Rape 1 and Rape of a Child 1. Joanne Smieja replied that the SOPB discussed that Rape 1 is a serious violent offense while Rape of a Child 1 is not. The Washington Association for the Treatment of Sexual Abusers' comments from the SOPB voting results stated that Rape 1 is not only a serious sex offense but also a dramatically violent physical offense and was deserving to be ranked higher than Rape of a Child 1. Whitney also pointed out the reasonings found under the Washington Association of Criminal Defense Lawyer's comment found in the same document.

Keri-Anne informed members that a recommendation from the Class A, B, and C subcommittees was to keep the seriousness level the same for offenses where there were no convictions from FY2010 - 2019. The reason being that there was no current practice or justification to change it, however, there were a few occasions where policy reasons were presented to change that recommendation.

A member asked about the final report and what that looked like. Keri-Anne reported that Rep. Goodman is only looking for the list of proposed rankings that can be placed in a bill he talked about dropping this session for discussion. With Lauren's help, there will be a report that includes some additional information, such as the background of the work. But that is not part of Rep. Goodman's due date.

Greg Link observed that the recommendations related to sex offenses don't comport with the direction that the subcommittees were given, which was to find the range that most closely captured current practice based on the data provided. He believed the SGC needs to come to an agreement on how to move forward on those. He went on to say that a lot of those sentences have weapon enhancements, consecutive sentencing, aggravated sentences, or are life sentences where only the minimum term will be changed. This is reflected in the low number of offenses noted in the conviction data provided.

There was discussion about when treatment would become available in prison and if the change in sentence length would impact that availability. There was discussion about how prosecution and defense practices may change with the elimination of multipliers. Keri-Anne mentioned that the SOPB had briefly discussed the idea of adding sex offenses to the repeat violator column, although no formal recommendation

was made. Jon Tunheim remarked that the elimination of the multipliers is one of the fundamental oppositions that WAPA has to the proposed grid.

Whitney offered to send data provided to the SOPB by the ISRB on some of the offenses that were discussed today.

VI. OTHER BUSINESS

No other business.

VII. PUBLIC COMMENT

No votes taken outside of procedural ones related to meeting minutes and bylaws so public comment was suspended.

VIII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



10/27/2023

Judge J. Wesley Saint Clair (Ret), Chair

Date