



STATE OF WASHINGTON

## SENTENCING GUIDELINES COMMISSION

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

### MEETING MINUTES

**April 12, 2024 9:00am – 12:00pm**

1500 Jefferson Building

Olympia, WA 98516

And Zoom

#### Members Present:

Hon. J. Wesley Saint Clair

Hon. Sharonda Amamilo

Greg Link

Secretary Cheryl Strange

Ramona Brandes

Hon. Josephine Wiggs

Vasiliki Georgoulas-Sherry

Judge Karen Donohue

Commissioner Tye Menser

Hon. Jeffery Swan

Jon Tunheim

Norrie Gregoire

Senator Claire Wilson

Kecia Rongen

Judge Veronica Galván

Jennifer Redman

Rep. Gina Mosbrucker

Chief Brian Smith

Tim Wettack

Jeremiah Bourgeois

Dr. Esther Matthews

#### Members Absent:

Rep. Tarra Simmons

Jennifer Albright

#### Staff:

Keri-Anne Jetzer

Dr. Lauren Knoth-Peterson, PSPRC

### **I. CALL TO ORDER**

Chair Judge Saint Clair called the meeting to order. As there are a few newly appointed members, he asked all members to introduce themselves.

## II. APPROVAL OF MINUTES

### **MOTION #24-41: APPROVE MARCH 8, 2024, MEETING MINUTES**

**MOVED:** Judge Swan

**SECONDED:** Chief Smith

**PASSED:** Passed

**ABSTAIN:** Jeremiah Bourgeois, Tim Wettack, Judge Donohue

## III. RE-RANKING PROJECT CONTINUED

Keri-Anne updated members on the three different offenses that have different degrees of the same offense ranked at the same seriousness levels.

### ➤ **Different degrees/same rank**

#### ○ **Malicious Explosion of a Substance 2/3 at SL 9**

Ramona Brandes suggested starting by looking at the elements of each degree for each offense. Members discussed the components of Malicious Explosion of a Substance and Malicious Placement of an Explosive offenses. At the request of a member, Dr Knoth-Peterson recapped that there were zero charges and zero convictions for Malicious Explosion of a Substance 3 and two charges and zero convictions for Malicious Explosion of a Substance 2. It was suggested that Malicious Explosion of a Substance 2 and 3 should be commensurate to Malicious Placement of an Explosive 2 and 3.

There was brief discussion about including as part of the recommendation a review of offenses that have not had convictions within 25 years. Keri-Anne noted that the Criminal Sentencing Task Force had included a similar recommendation in one of its reports for the SGC to review offenses with zero convictions in 5/10/15 years. Rep. Mosbrucker suggested it would be helpful in that work if the prosecution could provide insight into other ways that offenses with zero convictions are being charged.

### **MOTION #24-42: MALICIOUS EXPLOSION OF A SUBSTANCE 3 SHOULD BE MOVED TO FROM PROPOSED SL 9 TO SL 7 TO BE COMMENSURATE TO MALICIOUS PLACEMENT OF AN EXPLOSIVE 3**

**MOVED:** Greg Link

**SECONDED:** Commissioner Menser

**PASSED:** Passed (Y=14; N=1)

**ABSTAIN:** Norrie Gregoire, Vasiliki Georgoulas-Sherry, Secretary Strange, Kecia Rongen, Councilmember Rivera

➤ **Grouping of Theft offenses**

Keri-Anne briefed members on how Trafficking in Stolen Property 2 also plays a part in Item #2 Grouping of Theft offenses and that decisions related to Item #2 may impact the placement of Trafficking in Stolen Property 2. Dr. Knoth-Peterson further explained the thoughts of the re-ranking subcommittees regarding the grouping of theft offenses. Members decided to start with these offenses.

There was discussion about the differences between Trafficking in Stolen Property 1 and 2 being intentional and leader of trafficking versus recklessness. There was a comparison between Theft of a Motor Vehicle and Theft of Livestock as they both have a greater impact on one's life, with livestock generally being business-related. Dr. Knoth-Peterson noted that Theft of Livestock 1 relates to the intent to resell or exchange and deprive or defraud the owner, whereas Theft of Livestock 2 does not have intent but to take for personal use. She compared these definitions to the grouping logic where theft with an intent (resell, traffic, vulnerable adult) was considered more serious than just theft and ranked one SL higher.

**MOTION #24-43: MOVE TRAFFICKING IN STOLEN PROPERTY 1 FROM PROPOSED SL 2 TO SL 4**

**MOVED:** Judge Swan  
**SECONDED:** Jon Tunheim  
**PASSED:** WITHDRAWN  
**ABSTAIN:**

Ramona Brandes pointed out that Malicious Mischief 2 and Theft 2 were similar, particularly in the monetary value amount. During the discussion, Dr. Knoth-Peterson clarified that Malicious Mischief 1 causes an impairment or interruption of service to the public while Malicious Mischief 2 causes a substantial risk of impairment, etc.

**MOTION #24-44: MOVE MALICIOUS MISCHIEF 2 FROM PROPOSED SL 2 TO SL 1 TO BE COMMENSURATE TO THEFT 2**

**MOVED:** Ramona Brandes  
**SECONDED:** Dr. Matthews  
**PASSED:** Y=15; N=0  
**ABSTAIN:** Vasiliki Georgoulas-Sherry, Secretary Strange, Norrie Gregoire

Dr. Knoth-Peterson explained that Electronic Data Tampering 1 is related to defraud, deceive, extort, or commit any crime not included in that chapter. When the behavior relates to theft, it is included in Electronic Data Theft which is why Electronic Data Tampering isn't included in the theft categories. Ramona Brandes pointed out that some of the conduct in Electronic Data Theft overlaps with Computer Trespass 1. It was determined that Computer Trespass is unauthorized access of a system, while Electronic Data Theft is the actual theft of data regardless of authorization status. Chief Smith gave an example of the amount of damage just unauthorized access to a data system can cause.

**MOTION #24-45: KEEP ELECTRONIC DATA THEFT AT PROPOSED SL 2 TO BE COMMENSURATE TO THEFT 1**

**MOVED:** Judge Swan  
**SECONDED:** Norrie Gregoire  
**PASSED:** Y=15; N=0  
**ABSTAIN:** Vasiliki Georgoulas-Sherry, Secretary Strange

**MOTION #24-46: MOVE TRAFFICKING IN STOLEN PROPERTY 2 FROM PROPOSED SL 3 TO SL 2**

**MOVED:** Ramona Brandes  
**SECONDED:** Judge Swan  
**PASSED:** Y=15; N=0  
**ABSTAIN:** Vasiliki Georgoulas-Sherry, Secretary Strange

Greg Link commented that Taking Livestock 1 is like trafficking in stolen livestock while Taking Livestock 2 is just taking the livestock.

**MOTION #24-47: MOVE TAKING LIVESTOCK 1 FROM PROPOSED SL 4 TO SL 3 AND MOVE TAKING LIVESTOCK 2 FROM PROPOSED SL 3 TO SL 2**

**MOVED:** Greg Link  
**SECONDED:** Commissioner Menser  
**PASSED:** Y=14; N=0  
**ABSTAIN:** Vasiliki Georgoulas-Sherry, Secretary Strange

**IV. OTHER BUSINESS**

Keri-Anne informed members that Rep. Goodman will be submitting a request for the SGC to look at HB 2504 – sentencing grid. He will be attending the May meeting to talk about the request. She noted that the re-ranking work is tied to this bill and remains important, but she is unsure if the rest of the work plan will be feasible at this time. Greg Link asked if there was a racial equity analysis of the bill. Dr. Knoth-Peterson replied that analysis of the bill has not occurred as there are many moving parts but did talk about racial impact analyses there were included in the supplemental report that compares sentences imposed on the current grid to how they would change if imposed on the proposed grid.

Keri-Anne announced that the Jail Modernization Task Force created this past legislative session will be starting sometime before December this year. The Ruckelshaus Center is the facilitator and the SGC has been assigned a seat on the Task Force.

Greg Link talked about the lack of record of the SGC’s position on legislative bills. He suggested the SGC needs to figure out how to make sure the SGC’s position is noted and recorded. Rep. Mosbrucker said legislators would love it if the SGC could testify in person/virtually and would help articulate the message of the SGC’s position. Keri-

Anne explained that she learned a lot about this this past session. There is a place online listing who signed in to testify and who signed in their position. But if an entity signs in its position and provides written testimony, it doesn't show up on any public-facing list. She knows it does make it to legislative staff as she has received emails about one of the comments the SGC submitted for a bill. She added that she is happy to testify on behalf of the SGC, but she requested additional assistance from the members to make sure she is providing the correct position in the testimony.

**V. PUBLIC COMMENT**

Keri-Anne read a statement that she was emailed to her by a member of the public who was unable to attend the meeting. No other members of the public wished to address the members.

**VI. ADJOURNMENT**

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



5/10/2024

\_\_\_\_\_  
Judge J. Wesley Saint Clair (Ret), Chair

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Date