



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

MEETING MINUTES

June 14, 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 (proxy: Ramona Brandes)
Secretary Cheryl Strange (proxy: Dianne Ashlock)
Ramona Brandes
Vasiliki Georgoulas-Sherry
Judge Karen Donohue
Commissioner Tye Menser
Hon. Jeffery Swan
Kecia Rongen
Tim Wettack
Jeremiah Bourgeois
Dr. Esther Matthews
Judge Veronica Galván

Members Absent:

Rep. Tarra Simmons
Jennifer Redman
Hon. Josephine Wiggs
Senator Claire Wilson
Norrie Gregoire
Dr. Jennifer Albright
Chief Brian Smith
Jon Tunheim
Rep. Gina Mosbrucker

Guests:

Brad Meryhew, Chair, SOPB
Whitney Hunt, Coordinator, SOPB

Staff:

Keri-Anne Jetzer
Dr. Lauren Knoth-Peterson, PSPRC

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order.

II. APPROVAL OF MINUTES

MOTION #24-52: APPROVE MAY 10, 2024, MEETING MINUTES

MOVED: Ramona Brandes
SECONDED: Jeremiah Bourgeois
PASSED: Passed
ABSTAIN: Dr. Matthews

III. DISCUSS NEW WORK REQUEST

Keri-Anne informed members that there are two committees working on the multiplier and the exceptional sentence portions of HB 2504. The committees will start meeting during the lunch hours of June 26th and 27th, respectively, and meet every other week. She mentioned that there is still room if any other members would like to volunteer. Judge Donohue volunteered to be on the Exceptional Sentence committee. Keri-Anne noted that there are no prosecuting attorneys on either committee, although she has informed WAPA of the creation of the committees. Dr. Knoth-Peterson offered to provide an update to any volunteers who need to miss committee meetings. Juliana Roe from WSAC said she is working on finding another county representative to volunteer on the other committee. Jeremiah Bourgeois offered to talk to some prosecuting attorneys he knows. Judge Galván and Councilmember Rivera offered to consult their schedules for availability.

Upon request, Keri-Anne provided clarification on the work expected of the committees.

IV. RE-RANKING PROJECT CONTINUED

➤ **Intimidating a Judge – add to Crime Against a Person**

Keri-Anne briefed members on the partial discussion about this topic that was started during the May SGC meeting.

There was discussion about whether a judge, who has contempt authority, would accept some types of behavior as part of its role. It was also noted that the intimidation is directed toward a person representing the system. Dianne Ashlock reminded everyone that the impact of adding Intimidating a Judge to the Crime Against a Person list would be that if community supervision was ordered and the defendant met eligibility requirements, they would be supervised by DOC.

MOTION #24-53: ADD INTIMIDATING A JUDGE TO CRIME AGAINST A PERSON LIST

MOVED: Judge Swan

SECONDED: Judge Galván

PASSED: Passed (Y-8; N-3)

ABSTAIN: Vasiliki Georgoulas-Sherry, Kecia Rongen, Dianne Ashlock

➤ **Indecent Liberties without Forcible Compulsion (RCW 9A.44.100(d-f)) – offense parity**

Keri-Anne briefed members on some of the SOPB discussion related to this proposed change. Ramona Brandes disagreed that the conduct is similar. She believed (b-c) is related to people who are incapable of giving consent and (d-f) is related to people who did not give consent. Judge Swan mentioned that (b-c) are about the status of the individual whereas (d-f) are more about the specific relationship between the perpetrator and the victim. He remarked about the use of the unranked offense in plea agreements. Commissioner Menser disagreed as he sees in (d-f) a person with a mental

disorder or a vulnerable adult as being consistent with the concept of someone with reduced capacity to resist.

Dr. Knoth-Peterson provided a brief history of the change to the statute, but it was difficult for her to discern if the difference between (b-c) and (d-f) was an oversight or intentional.

Members reviewed other sex offenses that are ranked around SL 7 and that are unranked.

Judge Galván believed (d-f) should not be ranked as a SL 7 because it is not equivalent, but she also believed it is not the same conduct as other unranked sex offenses which are administrative in nature, address minors, or do not have direct victimization of an individual. Members discussed where it should be ranked.

Brad Meryhew, Chair of the SOPB, joined the meeting. He provided some context to the SOPB's proposal. There was discussion on whether the healthcare prong (d) is different from (e-f) and (b-c).

Commissioner Menser inquired if there were subsections between (d-f) that attorneys relied on for plea agreements. Brad Meryhew replied that the healthcare prong (d) most likely falls into that category. Most of those perpetrators don't have any criminal history as they are required to have a license to work in a health care facility. He said this can also be accomplished using Attempted Indecent Liberties, as well. It would be the loss of a tool that many offices use but wouldn't completely eliminate the options.

**MOTION #24-54: MOVE INDECENT LIBERTIES WITHOUT FORCIBLE
COMPULSION (RCW 9A.44.100(D-F)) FROM UNRANKED
TO RANKED OFFENSE**

MOVED: Judge Galván
SECONDED: Judge Swan
PASSED: Passed (Y-5; N-4)
ABSTAIN: Vasiliki Georgoulas-Sherry, Kecia Rongen, Dianne Ashlock,
Judge Amamillo, Commissioner Menser

Dr. Matthews observed that it is very different expecting a child to speak up for their rights than a vulnerable adult. Judge Galván responded that not all vulnerable adults have the ability to speak up.

Councilmember Rivera remarked that when leveling for an incarcerated person, sex offenses that used a position of authority or were against vulnerable persons are considered, however, there is no differentiation between an adult or child victim.

Dr. Knoth-Peterson pointed out that, in the case of the healthcare prong (d) where defendants may not have prior criminal history, there could be an unintentional reduction of sentence length when moving it from an unranked offense to a ranked

offense. Ramona Brandes countered that prosecuting attorneys can charge per incident and with the current 3-point multiplier for sex offenses, a defendant can reach a criminal history score of 9 quite quickly. Judge Galván replied that, for her, it is more about the consistency of treating similar conduct similarly.

**MOTION #24-55: RANK INDECENT LIBERTIES WITHOUT FORCIBLE
COMPULSION (RCW 9A.44.100(D-F)) AT SERIOUSNESS
LEVEL 4 ON PROPOSED SENTENCING GRID TO BE
COMMENSURATE WITH CHILD MOLESTATION 3**

MOVED: Judge Galván
SECONDED: Councilmember Rivera
PASSED: Failed (Y-4; N-6)
ABSTAIN: Vasiliki Georgoulas-Sherry, Kecia Rongen, Dianne Ashlock,
Judge Amamilo, Judge Donohue

**MOTION #24-56: RANK INDECENT LIBERTIES WITHOUT FORCIBLE
COMPULSION (RCW 9A.44.100(D-F)) AT SERIOUSNESS
LEVEL 3 ON PROPOSED SENTENCING GRID**

MOVED: Judge Swan
SECONDED: Ramona Brandes
PASSED: Passed (Y-9; N-0)
ABSTAIN: Vasiliki Georgoulas-Sherry, Kecia Rongen, Dianne Ashlock,
Judge Amamilo, Commissioner Menser, Judge Donohue

➤ **Vehicle Prowl 1 and Residential Burglary – offense parity**

Keri-Anne briefed members on the discussion behind the question of if Vehicle Prowl 1 should be commensurate with Residential Burglary.

Ramona Brandes noted that motor homes can be used as a dwelling but it can also be parked and vacant. She believes there is a difference between something that can be used as a dwelling and something that is a dwelling. She suggested the Legislature amend the Residential Burglary statute rather than changing Vehicle Prowl 1.

Jeremiah Bourgeois asked if breaking into an abandoned home or vacation home would be considered Residential Burglary. Ramona Brandes replied that is it a defense that the home is abandoned and not occupied. Judge Galván agreed that this should be a legislative fix as to defining what a dwelling is. The Supreme Court has ruled that some vehicles are considered abodes. Judge Swan also agreed and didn't think that many people used their vehicles as a domicile when the statute was created. Dr. Knoth-Peterson wondered if houseboats would be considered vehicles or not.

MOTION #24-57: LEAVE RESIDENTIAL BURGLARY AND VEHICLE PROWL 1 RANKED AS THEY ARE BUT SUGGEST THE LEGISLATURE CONSIDER A CHANGE TO THE DEFINITION OF RESIDENTIAL BURGLARY WITH REGARD TO THE LIMITATION ON VEHICLES AND/OR THE DEFINITIONS OF A DWELLING.

MOVED: Judge Swan
SECONDED: Ramona Brandes
PASSED: Passed (Y-10; N-0)
ABSTAIN: Vasiliki Georgoulas-Sherry, Kecia Rongen, Dianne Ashlock

V. OTHER BUSINESS

Judge Saint Clair briefed members on his presentation at the Supreme Court Symposium earlier in the week. Keri-Anne reported that she found some of the evidence presented during the symposium to be very interesting. Judge Amamilo thought the information from the presentations could be considered when making decisions that are comprehensive, wholistic, and relevant to the individual in front of you. Dr. Matthews remarked that people are interested in discussing the science but when it comes to actually changing policy or implementing practice, there is more caution. Keri-Anne offered to send the presentation link to members.

Chair Judge Saint Clair decided to cancel the July 12, 2024, SGC meeting to allow the committees time to work on their projects.

Chair Judge Saint Clair announced to members that Jeremiah Bourgeois and Judge Amamilo will be attending the National Association of Sentencing Commissions in Raleigh, NC in August.

VI. PUBLIC COMMENT

Bruce Glant, of CAGE, spoke to the members. He requested the opportunity to present to the SGC in the future about Net Nanny stings. Keri-Anne told Mr. Glant she would be in touch.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



9/13/2024

Judge J. Wesley Saint Clair (Ret), Chair

Date