



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

MEETING MINUTES

September 13, 2024 9:00am – 12:00pm

1500 Jefferson Building, Room 2208

Olympia, WA 98516

And Zoom

Members Present:

Hon. J. Wesley Saint Clair
Hon. Sharonda Amamilo
Greg Link
Secretary Cheryl Strange
Ramona Brandes
Vasiliki Georgoulas-Sherry
Judge Karen Donohue
Commissioner Tye Menser
Hon. Jeffery Swan
Kecia Rongen
Jeremiah Bourgeois
Hon. Josephine Wiggs
Senator Claire Wilson
Norrie Gregoire
Chief Brian Smith
Rep. Gina Mosbrucker
Amy Anselmi
Rochelle Cleland

Members Absent:

Rep. Tarra Simmons
Jennifer Redman
Judge Veronica Galván
Dr. Esther Matthews
Jon Tunheim

Guests:

Tim Wettack

Staff:

Keri-Anne Jetzer
Dr. Lauren Knoth-Peterson, PSPRC
Whitney Hunt, SOPB Coordinator

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order. He started with introductions of new members and comments from an exiting member.

Chief Smith introduced Chief Kal Fuller as his new alternate on the SGC.

Tim Wettack addressed the membership at his last meeting as a member of the SGC. He encouraged the SGC to return to in-person meetings as they help build relationships amongst members. He recalled how the SGC spent quite a bit of time working on a second review process and that he was disappointed that it didn't go anywhere due to lack of support by prosecuting attorneys. He encouraged the SGC to

re-engage in the concept of second look for people who have earned their way out of prison. He added that his interest in second look stems from his time as a volunteer at the Monroe prison with the Concerned Lifers Organization. He invited commissioners to join him meeting with the Concerned Lifers Organization that has been established at Shelton, where he now volunteers his time. It meets twice per month on Tuesdays from 6-8pm. He asked any members who are interested to contact Keri-Anne who can provide his personal contact information. Lastly, he encouraged members to give great deference to input offered by SGC member Jeremiah Bourgeois. Jeremiah, he said, is very smart, has lived the life of incarceration for many years, and knows what works and what doesn't within the prisons for the sake of rehabilitation. Tim remarked that he enjoyed his time on the SGC and wished members luck on their future work. Chair Judge Saint Clair thanked Tim for his time and valuable input during his appointment. Judge Saint Clair agreed when one takes time to listen to the insight, maturity and wisdom of those who have served a long time of incarceration it is an eye-opener. Much can be learned from them, he added.

The Chair recognized two new members, Rochelle Cleland and Amy Anselmi and each member introduced themselves.

II. APPROVAL OF MINUTES

MOTION #24-58: APPROVE JUNE 14, 2024, MEETING MINUTES

MOVED: Greg Link
SECONDED: Chief Smith
PASSED: Passed
ABSTAIN: Norrie Gregoire

III. RE-RANKING PROJECT CONTINUED – Review draft report

Keri-Anne talked about the draft report sent to members. She asked members for feedback on content and grammar. While this is a self-driven project and there is no due date associated with it, Keri-Anne did note that some of the ranking changes may be needed for Rep. Goodman's sentencing grid bill come the new legislative session.

A few members commented that they felt the report was easy to read and reflects the discussions had, while other members requested more time. Chair Judge Saint Clair suggested holding off discussion until the October meeting so members could have more time to review the report.

IV. DISCUSS NEW WORK REQUEST – Review draft recommendations

Keri-Anne presented draft language recommendations that came from the two committees the SGC created to review parts of HB 2504. She informed members that parts of the sentencing grid are still being reviewed by Rep. Goodman and others, which restricted the amount of review the Multiplier committee could complete.

When Keri-Anne was discussing proposed language establishing the Aggravated Departure Cap value in the bill, Greg Link observed that when applying the

aggravating departure value, it creates a disproportionately higher sentence for those with a criminal history score of 0 or 1 as opposed to a criminal history score of 9. Dr. Knoth-Peterson explained the theoretical justification is that the Aggravated Departure Cap uses an integer because the additional punishment is associated to the way the offense was committed and is applied regardless of the amount of criminal history an individual has and is independent of criminal history. The percentage used for the Repeat Violator column is tied to the criminal history score as its arguing that the repetition is more serious the long of criminal history one has. There was further discussion on this.

Keri-Anne asked members what they would like to see replace integers used for the Aggravated Departure Cap. Greg Link replied he would like to see it as the 10 percent but applied like the Repeat Violent column to each cell upper range. Ramona Brandes agreed with Greg's recommendation. Dr. Knoth-Peterson suggested in that case to remove the column and change the statutory language to indicate the Aggravated Departure is no greater than 10% of the upper range. Keri-Anne noted that 10% of some of the lower ranges would result in less than 1 month and wondered if a graduated percentage, like used with the Repeat Violator column, would be preferred. Keri-Anne offered to provide a mockup at the next meeting if desired. Members were interested in graduated percentages.

Keri-Anne briefed members on the proposed language addition in Section 6 that would clarify the order of operations of the Repeat Violator column values and the Aggravated Departure cap values as applied to the maximum range in each cell. The order would be to apply the Repeat Violator Column first as it actually modifies the standard range. From there any applicable Aggravated Departure cap values would be added to the new standard range. Greg Link commented that, regarding the "presumed to be clearly excessive" language, there is no existing case law that says what to do with that presumption and feels the SGC will need to delve into the review statute.

Keri-Anne showed that language related to rounding down to the nearest whole number, as found in the juvenile statutes, was added to the section related to Repeat Violator column so that calculations would not result in fractions of months.

Keri-Anne then discussed the proposed language changes related to the application of the Repeat Violator column. Ramona Brandes asked if there was a definition of 'maximum value range' as that is not a term criminal practitioners use. Dr. Knoth-Peterson noted it was used in Section 1. Members suggested that adding some definitions at the beginning of the statute would add clarity and could save confusion and appellate issues in the future. Keri-Anne offered to draft up some definitions for the members consideration next month.

Language was also added so that the offenses must be scorable per RCW 9.94A.525 which means that offenses that have washed out are not scorable.

Keri-Anne explained there is a Section 5(3)(b) on page 34 that she sought clarification on but did not receive. She suggested members could either try to interpret the language or create their own language based on what they think it should state. Dr. Knoth-Peterson suggested it could be read that if someone has a current sex offense and a current non sex violent offense, and has a violent sex offense in their history, then both the sex offense and the non sex violent offense would have the Repeat Violator column applied based on that one prior. Thus, one prior offense would cause an increase in multiple different current offenses, which is reflective of current scoring rules.

There was additional discussion about this section. Ramona Brandes and Greg Link volunteered to come up with clearer language and send it to the SGC for the next meeting. Jeremiah Bourgeois volunteered to help as well.

Greg Link noted that the appeal statute was included in the bill (Section 7) and is amended to include the “clearly excessive” language. He offered to speak to Rep. Goodman about what the presumption actually means, but also noted there are a number of things that don’t exist in practice, such as the idea that they will be reviewed on the record without any written pleadings. That has never happened in 40 years and may not need to be in there.

V. OTHER BUSINESS

The Chair asked members to report on their participation at the National Association of Sentencing Commission in North Carolina in August. Jeremiah Bourgeois said he participated on a panel of individuals on guidelines commissions with lived experience. He proffered that he will be presenting soon to the Kansas commission.

Keri-Anne remarked that Jeremiah’s presentation on the panel was fantastic and during the presentation he had mentioned something that she wanted to speak to the Chair about, which is offering mentors to new people coming on to the SGC. She commented that Greg Link’s presentation was well received and referenced in several other presentations throughout the conference. Dr. Knoth-Peterson’s presentations were on the mark and Keri-Anne said she wished they could have been recorded to share with all the members.

Greg Link spoke on a panel about long service on commissions and, even with his seven years of service, he noted other commissions had members who had served 15-20 years which is the norm for them. For the SGC, he observed there is a lot of turnover and with that comes the need for some training, education and guidance, referring to Jeremiah’s comment, to maintain the continuity of the conversation. He suggested there is a challenge in finding the ‘sweet spot’ between too much turnover and entrenched viewpoints from those engaged in the conversation for too long. He said he was also on a panel that talked about commissions doing work in juvenile matters. He reported there are only four states that are currently doing that, with Washington probably doing the least. Considering the increasing overlap between juvenile sentencing and adult sentencing, he thought it would be incumbent upon the

SGC to be more involved in that conversation. He went on to say that the difference in how much support other commissions have that this commission lacks was significant. Those other commissions are able to conduct pretty in-depth research, are addressing the population of their prisons and jails, monitoring them and deciding what the appropriate population levels should be.

Judge Amamilo said, while much of her comments have been mentioned by others, one thing she took away from the conference was that, as a commission, we talk about a lot of complex and potentially contentious issues. One presenter said it's hard work that we do and partisanship hampers good policy development. She thought this commission does a good job of working through these types of issues without getting siloed and keeps the discussion moving forward. She noted that collegiality is very critical. Some commissions are not as fortunate as ours to have as much participation as this one has. The Judge talked about the panel that Jeremiah Bourgeois was on. She didn't think there was a dry eye in the room. She shared that what they talked about is what is possible when someone is given grace. The panelists, she said, are doing tremendous work giving back to the public.

Dr. Knoth-Peterson thought the conference is a great opportunity to understand that there is not a uniform sentencing guidelines commission. Different states' commissions look different, and it was great to get the perspective of other people who work with guidelines that are different. In regard to Greg Link's comment about staffing differences, Dr. Knoth-Peterson noted it was interesting to reflect on what is the authority and the purpose of each commission is in each state and how their structures support that and discussed a few examples.

Commissioner Menser commented that another committee on which he serves, which has equally if not more complex issues to deal with than this one, has the level of authority that Dr. Knoth-Peterson had talked about but only has three staff. He felt that Washington has a philosophy of understaffing and resourcing important committees.

Chair Judge Saint Clair asked conference participants to share their observations in a joint paper.

Norrie Gregoire offered an update on Juvenile Rehabilitation. Based on the lawsuit by 13 counties, JR has started accepting intakes again and the 43 residents moved to DOC were moved back to JR. He thought JR may be getting ready to move some 21–25-year-olds to Stafford Creek that he assumed will be run by JR staff. He said a lot of JR leaders are working at Green Hill School as they try to deal with the crisis. He is on a proviso group that is looking to raise the age of juvenile jurisdiction to 18/19/20 with the Partnership Council, although he is unsure when any legislation will be coming. He suggested that the SGC may be called to look at things like the juvenile sentencing grid, should the Legislature want that.

Senator Claire Wilson offered that she is the co-chair of the DCYF Oversight Board and that conversations with JR are day to day. There has been no decision made about

moving any individuals. There are conversations and explorations but any movement would be within the context of DCYF not of DOC. When session starts, as Legislators, she said they may be able to make some changes but, until then, conversation is about making sure they are not putting young people in a position where their safety and staff safety is a concern.

VI. PUBLIC COMMENT

Keri-Anne informed members there were two people in attendance who wished to address the membership.

Arthur Longworth is the Policy Manager at Team Child, which is a legal aid organization contracted with the state to serve young people in the juvenile rehabilitation facilities. He briefed members on the subject matter of a letter Team Child sent to the governor about the overcrowding and staffing crises occurring at JR. The letter, among other recommendations, referred to RCW 9.94A.870 which gives the governor the authority to call the SGC into an emergency meeting to assist with overcrowding conditions in state facilities.

Grete Schultz, Managing Attorney at Team Child, talked in greater detail about RCW 9.94A.870. Through the letter and here today, she said, they are asking the SGC to address the sentencing guidelines. She briefed members on some issues that residents at GHS are dealing with.

Greg Link remarked that the same statute was considered shortly after Covid started. Judge Wiggs questioned if that statute applied to the juvenile facilities as it is located within the Sentencing Reform Act and not the juvenile sentencing scheme. Jeremiah replied that “state residential correctional facilities’ does include juvenile facilities. Greg Link suggested the reason it is located within the SRA is that is where the SGC was created.

MOTION #24-59: IN LIGHT OF THE CONDITIONS AT GREEN HILL SCHOOL AND OTHER JUVENILE FACILITIES, REQUEST THE GOVERNOR TO CALL THE SGC INTO A SPECIAL MEETING ON OCTOBER 4, 2024, TO USE THE GIVEN AUTHORITY UNDER RCW 9.94A.870

MOVED: Greg Link
SECONDED: Councilmember Rivera
PASSED: Passed (Y=12; N=0)
ABSTAIN: Secretary Strange, Kecia Rongen, Vasiliki Georgoulas-Sherry

Chair Judge Saint Clair suggested a friendly amendment to include a date to keep up the urgency. He offered October 4, 2024, for when the SGC would meet in special session. That was accepted by Greg Link and Councilmember Rivera.

Chair Judge Saint Clair suggested creating a work group to develop recommendations that would be addressed on October 4, anticipating that the governor would say yes to

the request. Volunteers: Ramona Brandes, Norrie Gregoire, Jeremiah Bourgeois, Councilmember Rivera, Kecia Rongen, Judge Amamilo.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



10/11/2024

Judge J. Wesley Saint Clair (Ret), Chair

Date