



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

MEETING MINUTES

February 14, 2025 9:00am – 12:00pm

1500 Jefferson Building, Room 2330

Olympia, WA 98516

And Zoom

Members Present:

Hon. J. Wesley Saint Clair
Greg Link
Secretary Tim Lang
Ramona Brandes
Hon. Karen Donohue (proxy: Judge Swan)
Rochelle Cleland
Hon. Jeffery Swan
Commissioner Tye Menser
Kecia Rongen
Councilmember Carmen Rivera
Jeremiah Bourgeois (proxy: Ramona Brandes)
Norrie Gregoire
Chief Brian Smith/Chief Kal Fuller
Amy Anselmi (proxy: Steve Anselmi)
Dr. Vasiliki Georgoulas-Sherry
Hon. Veronica Galván (proxy: Judge Saint Clair)
Dr. Esther Matthews
Jon Tunheim

Members Absent:

Rep. Tarra Simmons
Jennifer Redman
Hon. Josephine Wiggs
Senator Claire Wilson
Hon. Sharonda Amamilo

Staff:

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

I. CALL TO ORDER

Acting Chair Judge Wiggs called the meeting to order.

II. APPROVAL OF MINUTES

Keri-Anne reported that she was unable to complete the meeting minutes in time for this meeting.

III. AMENDED BILLS THE SGC HAS TAKEN A POSITION ON

Keri-Anne informed members that there are several bills that the SGC had already taken a position on but had significant enough changes that she wanted to bring them back before the members in case that position has changed.

SHB 1125 – Providing judicial discretion to modify sentences in the interests of justice. No change in position.

SHB 1149 – Preventing cruelty to animals. No change in position.

SHB 1178 – Concerning sentencing enhancements. No change in position.

SHB 1274 - Concerning retroactively applying the requirement to exclude certain juvenile convictions from an offender score regardless of the date of the offense. No change in position.

ESSB 5105 - Concerning sexually explicit offenses involving fabricated depictions of minors. No change in position.

IV. PREFILED BILL PROPOSALS

Keri-Anne pointed out the list of bills that the Legislative Committee has recommended be brought before the full membership and that have had a policy hearing. She removed those bills that have not had a policy hearing to date.

HB 1815 - Concerning prison riot offenses.

Keri-Anne briefed members on the bill and noted that it goes further than what the SGC had recommended by allowing those who were convicted of prison riot to seek vacation of the record. She added that she did testify on behalf of the SGC at the bill's policy hearing earlier, stating that she registered the SGC as Other and testified that while the SGC had not discussed the bill, it did make a similar recommendation related to changing the definition of correctional institution under the prison riot statute.

Ramona Brandes commented that some of the sponsors may be working on the bill to include juvenile detention facilities not under DCYF.

Dr. Lauren Knoth-Peterson reviewed a racial and ethnic impact statement she produced for HB 1815, which will be distributed to members once finalized.

MOTION #25-27: SUPPORT HB 1815 WITH RECOMMENDATION TO INCLUDE JUVENILE DETENTION FACILITIES IN THE EXCLUSION

MOVED: Ramona Brandes

SECONDED: Dr. Matthews

PASSED: Yes - 9; No – 1

ABSTAIN: Dr. Georgoulas-Sherry, Jon Tunheim, Kecia Rongen, Secretary Lang, Norrie Gregoire, Rochelle Clelland

SSB 5268 - Imposing community custody after a conviction for unlawful possession of a firearm.

Keri-Anne briefed members on the changes found in the substitute bill, which essentially only adds a term of community supervision to UPFA 1/2.

While understanding the concerns about UPFA 1 which generally deals with people with violent criminal history that cause them to lose that right, Judge Swan noted that UPFA 2 could be related to offenses from low level class C felonies (Theft 2, Assault 3) or gross misdemeanors. He wondered if it was a good use of resources to keep someone on community supervision for a significant amount of time when there has not been any additional violent behavior exhibited. Ramona Brandes agreed.

Jon Tunheim stated he is very supportive of community custody. The part of the bill that concerned him was the mandatory requirement of community custody instead of it being discretionary. Chief Smith agreed with Jon that he, too, is supportive of community custody. The Chief is also supportive of people being accountable when they aren't supposed to have firearms.

Dr. Knoth-Peterson clarified that the initial community custody term is 12 mos for all UPFA 1/2, and then in 2026 it switches to 18 mos if the underlying sentence was at least over 1 yr incarceration in state prison, which could resolve the concern about gross misdemeanors or lower level class C felonies with low criminal history.

Secretary Lang reminded members that DOC is only authorized to supervise individuals who are scored as high risk to reoffend unless the offense is one the list of specific offense, which UPFA 1 or 2 are not. Keri-Anne explained that the bill changes what the court can issue but not who DOC can supervise. Dr. Matthews replied that the statute is in line with what a large body of research recommends, which is that supervising people who do not need it is counterproductive and harmful.

Jon Tunheim observed that if this bill directs the courts to order supervision that is currently not allowed, the statute governing who DOC can supervise would direct DOC to supervise those only at high risk to reoffend, which may speak to Judge Swan's concern about supervising those who do not have the criminal history to justify it.

Greg Link commented that, in his experience, UPFA is almost always accompanied by some other offense. More often than not, that other offense has a term of community custody, he believed. He wondered if others have had the same experience. Judge Swan agrees with Greg but has also seen other instances when people have been found with a firearm not related to another crime. The Judge is concerned the bill throws out a wide net and would pull up more than just the individuals being targeted. Jon Tunheim agreed, anecdotally, that a high percentage of UPFAs come with another offense, but also a few instances when people can receive UPFAs without one.

Judge Saint Clair agreed with Judge Swan's point about carefully utilizing limited resources and concern about over supervising.

**MOTION #25-28: SUPPORT HB 5268 REGARDING SUPERVISION FOR
UPFA 1 AND SUGGEST MORE SPECIFICATION IN
APPLICATION TO UPFA 2**

MOVED: Ramona Brandes

SECONDED: Dr. Matthews

PASSED: Yes - 9; No – 1

ABSTAIN: Dr. Georgoulas-Sherry, Jon Tunheim, Kecia Rongen, Secretary
Lang, Chief Smith

Judge Saint Clair informed members that he had been requested to provide a letter of support for SHB 1274 regarding adjusting the retroactivity of juvenile points from the offender score calculation. As the SGC has supported this in the past, it was his inclination to send the letter. He asked members if anyone felt otherwise. No members indicated they felt differently.

SSB 5323 - Concerning the penalties for theft and possession of stolen property from first responders.

Keri-Anne reminded members that the SGC opposed a similar bill last year related to this issue being that it could apply to small ticket items such as band aids and gloves. She noted the different language in this bill from last year's bill.

Ramona Brandes commented that she didn't feel the different language addressed the de minimis theft because all kinds of de minimis things can be critical in an emergency setting. Judge Swan agreed that adding the "critical to their work in an emergency situation" could apply to almost everything.

Commissioner Menser inquired whether this bill was related to defining a crime, which the SGC has said it does not generally do. Members discussed whether this was a change in definition or not and decided not to take a position on this bill.

SB 5333 - Concerning penalties related to eluding police vehicles and resisting arrest.
Keri-Anne briefed members on the bill.

Norrie Gregoire had questions about the juvenile parole requirement being that parole is a state function and wondered if this would warrant a commitment. Keri-Anne clarified that when DCYF releases individuals due to overcapacity, a person released with an adjudication for Attempting to Elude would receive parole as well as those under pretrial detention.

Ramona Brandes expressed concern about the mandatory addition of 12 months of home monitoring, which she said is detention. She felt this extends the punishment for Attempting to Elude a Police Vehicle which is a seriousness level 1 felony. Judge Swan questioned requiring supervision without knowing the person's risk level, based on the discussion earlier in the meeting.

Members discussed the financial and workforce capacity needed for home monitoring.

MOTION #25-29: OPPOSE SB 5333

MOVED: Ramona Brandes
SECONDED: Commissioner Menser
PASSED: Yes - 10; No – 0
ABSTAIN: Dr. Georgoulas-Sherry, Jon Tunheim, Secretary Lang, Norrie Gregoire

SB 5569 - Recognizing a court's authority to authorize a defendant's direct transfer from jail to inpatient or residential substance use disorder treatment.

Keri-Anne briefed members on the bill. Ramona Brandes thought this bill may actually codify current law. Norrie Gregoire replied that this is current practice in his area and likely other areas. Jon Tunheim agreed but also wondered if this falls under the SGC's purview as it is related to pretrial confinement and transfer to a program. Members did not take a position on this bill as they believed it was outside the SGC's purview.

Chair Judge Saint Clair commented on the importance of the SGC staying in its lane. He added that the DOC supervision model is not within the SGC's lane but that the SGC can still encourage better practices and evidence-based practices. He wondered if taking a position of OTHER, acknowledging that this does not fall under the SGC's purview but encouraging the ability to innovate for more universal treatment for the individual and the institution, would be acceptable.

MOTION #25-30: POSITION OF OTHER ON SB 5569 – SUPPORTIVE OF TREATMENT AND DIVERSION AND ENCOURAGE ALTERNATE FORMS OF RESOLUTIONS

MOVED: Ramona Brandes
SECONDED: Judge Swan
PASSED: Yes - 11; No – 0
ABSTAIN: Dr. Georgoulas-Sherry, Secretary Lang

SSB 5071 - Updating the endangerment with a controlled substance statute to include fentanyl or synthetic opioids.

Keri-Anne briefed members on the bill. Members believed this was related to the definition of a crime and did not take a position on it.

SHB 1101 – Concerning vehicular homicide offenses.

Keri-Anne briefed members on the bill. She noted the court case that determined Veh Hom – DSO not a violent offense.

After looking at the testimony in the bill report, Jon Tunheim observed that since this offense is still considered a non-violent offense, it is eligible for the First Time Offender Waiver and does not receive any community custody. He went on to suggest that by adding it as a violent offense, it would no longer be eligible for the FTOW and be eligible for up to 18 months of community custody.

Ramona Brandes remarked that she is against designating crimes as violent when they are not inherently violent. There are other ways to get at what this bill is trying to

accomplish. Dr. Matthews agreed and noted that the violent designation has other repercussions, especially in reentry and employment.

MOTION #25-31: OPPOSE SHB 1101

MOVED: Judge Swan

SECONDED: Ramona Brandes

PASSED: Yes - 8; No – 1

ABSTAIN: Dr. Georgoulas-Sherry, Secretary Lang, Jon Tunheim, Norrie Gregoire, Amy Anselmi, Commissioner Menser

SSB 5360 - Concerning environmental crimes.

Keri-Anne briefed members on the bill. Judge Swan wondered if there were any offenses analogous to these offenses to help determine where they should be ranked. Dr. Knoth-Peterson replied that she provided some information on this to legislative staff to help guide decisions. She looked at the level of harm, the level of culpability of the individual, and imminent danger.

Jon Tunheim suggested it was difficult to do a thorough analysis on a bill like this within the limited time of this meeting and without having subject matter experts available. Ramona Brandes commented that in her review of the bill, she didn't think the rankings were too high.

Judge Swans agreed this is a complicated set of crimes and punishments and suggested more time was needed to make a decision. Members requested additional information and to table the discussion on this bill until the next meeting.

V. OTHER BUSINESS

Chair Judge Saint Clair reported to members that Governor Ferguson requested that any recommendations from the SGC go through the Governor's office. Keri-Anne clarified that all state agencies, boards, commissions, task forces, etc. were to testify as OTHER and then give any testimony they were going to give. The Chair wanted to know how members felt about that. Dr. Matthews noted that she supports the Statewide Reentry Council, which is located within the Department of Commerce. She said they were instructed that Commerce employees had to sign in as OTHER, but the Council members had been told that they can take a PRO or CON position. She was confused about the difference between the requests.

Chair Judge Saint Clair said that nothing has been decided as there is another conversation scheduled with the Governor's Policy Office. He would keep members informed.

VI. PUBLIC COMMENT

No member of the public wished to address the members.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



4/11/25

Judge J. Wesley Saint Clair (Ret), Chair

Date