



STATE OF WASHINGTON
SENTENCING GUIDELINES COMMISSION
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MINUTES

September 12, 2008

ROLL CALL Members Present:

Dave Boerner
John Clayton
Margaret McKinney for ISRB
Ned Delmore
Hon. Tari Eitzen
Lynda Ring Erickson
Hon. Ellen Fair
Russ Hauge
Ann Heath
Michael Kawamura
Hon. Ronald Kessler
Tim Killian
Sen. Adam Kline
Hon. Dean Lum
Lenell Nussbaum
Mary Ellen Stone
Eldon Vail

Members Absent

Rep. Sherry Appleton
Ida Ballasiotes
Lucy Isaki
Rep. Kirk Pearson
Sen. Pam Roach

Staff Present

Jean Soliz-Conklin
Shannon Hinchcliffe
Andi May
Teresa Waller

Invited Participants

Hon. Stephen Warning, Cowlitz County Superior Court

Others Present:

Gongwei Chen, Director, Washington State Caseload Forecast Council; Seth Fine, Asst. Chief Criminal Deputy Snohomish County Prosecutor's Office; Harris Haertel, Mason County Juvenile Court Administrator; Betsy Hollingsworth, Member, Indeterminate Sentencing Review Board (ISRB); Margaret McKinney, Executive Director, ISRB; Lidia Mori, Coordinator, Senate Judiciary Committee; Ginger Richardson, Washington Federation of State Employees (WFSE); Peggy Smith, ISRB; Clela Steelhammer, Department Of Corrections (DOC).

I. CALL TO ORDER

Chairman Dave Boerner called the meeting to order at 9:10 a.m.

II. APPROVAL OF MINUTES

MOTION # 1016 APPROVAL OF THE AUGUST 15, 2008

Moved: Judge Fair **MINUTES**

Seconded: Russ Hauge

PASSED: Unanimously

A copy of the presented assumptions is attached as **Exhibit A.**

IV. EXECUTIVE DIRECTOR'S REPORT

This item was taken out of order, at the request of chair.

Jean Soliz-Conklin informed the Commission that the state budget, if carried forward with the usual inflationary increases, would result in a \$3.4 billion shortfall. Governor's budget staff is, therefore, working with agency leaders in groups focused on government priorities to propose cutbacks. The Governor is required by the state constitution to publish a budget on December 16th, which is balanced to the forecast.

The Commission was told that Jean submitted one decision package for the 2009-10 biennial budget, which requests making the funds for the Research Director position permanent. Jean Soliz-Conklin reminded the Commission that funds for that position had come from OFM this biennium, through an Interagency Agreement, as intended by the legislature. She also informed the commission that Razak Garoui had resigned to return to the world of educational assessment research. Jean plans to hire temporary help to ensure quality, timely fiscal notes. If permanent funding is allocated, she will begin a new search for a Research Director.

The Executive Director told the Commission that the agency had notified about twenty-one offenders that there had been an error in the 2002 Adult Sentencing Manual that may have affected their sentences. Those offenders were told to check with their attorneys or local prosecutors.

Finally, Jean explained that she had been contacted by an assistant attorney general and the Commission needs to amend the administrative code related to community custody ranges to reflect a range for persons convicted of an offense involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate, in accordance with E2SHB 2712. The Chair appointed Lenell Nussbaum, Russ Hauge and Eldon Vail to an ad hoc committee for the development of a community custody range for those offenders.

III. CORRECTIONS FORECAST ASSUMPTIONS REVIEW

Gongwei Chen, Washington State Caseload Forecast Council, presented the assumptions to be used in preparing the November criminal justice caseload forecast. Each year, the Commission is required to review assumptions to be used in preparing a forecast of prison population by crime type and gender of offenders. A copy of the presented assumptions is attached as **Exhibit B.**

COMMUNITY CUSTODY

Staff presented a list of ideas for the commission discussion. Chairman Boerner began the discussion of Community Custody policy issues by revisiting the concept of an “evidence-based community custody” model, which was presented at the last meeting. The model, fashioned after the juvenile justice framework, is an opt-in demonstration project that would allow one or two counties to take over administration of community custody for offenders leaving jail. Local government provides this service in most states, but the Department of Corrections provides all community supervision in Washington State. This new system would be overseen to ensure an evidence-based approach. While judges would have increased discretion about who gets community custody sentences, the sentencing of offenders for custody would be required to respond to research that says higher risk offenders should be supervised in the community and they should be provided with proven programming that is continuously monitored for quality.

Commissioner Lynda Ring Erickson pointed out that counties are under very tight economic constraints and any such model would require a commitment for ongoing sufficient funds. DOC Secretary Eldon Vail reminded the Commission that unions would be very concerned about this project. Commissioner Heath suggested that dividing responsibility for supervision to 39 counties might, in the end, be more costly.

Judge Fair pointed out that the juvenile model, which provides localized sentencing and supervision, has been a proven success. She added that the judges would like a statewide model, as there has been a good deal of concern about disparities in drug court. Russ Hauge mentioned that drug courts are a testament to local control. CCO Ginger Richardson suggested that Oregon be studied as they just switched to a county model and that county employees make 5% to 10% more than state workers.

Commissioner Delmore pointed out that ongoing quality control provides the basis for the success of the juvenile system.

In response an inquiry about cost-benefit, Dave Boerner reminded the group that the proposal keeps faith with the WSIPP research on lowering recidivism. The Commission continued a discussion of resources, and ways of lowering the prison and jail population while reducing recidivism. Some commissioners opined that we are wasting some dollars on programs due to a lack of quality control or because they are not the most effective approach to lowering recidivism.

Eldon Vail suggested it may be worthwhile to issue a public policy statement about principles and the Commissioners suggested principles be added to the Sentencing Reform Act regarding truth-in-sentencing and fidelity to evidence based practices. Staff was asked to develop language accordingly. Others suggested it may also be worthwhile to support efforts by the Department of Corrections to adhere to the research regarding programs for offenders.

No consensus was reached. The Chairman and Seth Fine met with judges in Snohomish County

in a meeting hosted by Judge Ellen Fair, Vice-Chair of the Commission. The judges will be discussion the concept in a meeting scheduled for September 13th

Lunch

Commissioners continued their conversation with the presenters and each other during lunch.

Adjournment

The meeting was adjourned 12:18 p.m.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

Dave Boerner

Date

Jean Soliz-Conklin

Date