



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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**SENTENCING GUIDELINES COMMISSION
JT/MTG MINORITY AND JUSTICE COMMISSION
MINUTES**

September 27, 2013 8:30am – 12:30pm
Seattle City Hall, Bertha Landes Room
600 Fourth Avenue, 2nd Floor
Seattle, WA 98104

SGC Members Present:

Dave Boerner
Dan Satterberg
Bernie Warner
Bonnie Glenn
Kathleen Kyle
Lenell Nussbaum
Hon. Monica Benton
Sen. Adam Kline
Rep. Mary Helen Roberts
Russ Hauge

SGC Members Absent:

Bonnie Bush
Lynne DeLano
John Lane
Hon. Catherine Shaffer
Hon. Janice Ellis
Hon. Maryann Moreno
Sen. Pam Roach
Sheriff Paul Pastor
Rep. Brad Klippert

SGC Staff:

Keri-Anne Jetzer

I. INTRODUCTION

Judge Mary Yu, Co-Chair of the Minority and Justice Commission

Judge Yu applauded this joint meeting as a way to take these conversations to the next level.

II. WELCOME

Councilmember Bruce Harrell, Seattle City Council

III. INTRODUCTION OF COMMISSION MEMBERS

Members of the Minority and Justice Commission and Sentencing Guidelines Commission

IV. RACIAL IMPACT STATEMENTS – PROPOSED LEGISLATION

David Boerner, chair of the Sentencing Guidelines Commission, introduced to the joint commissions the draft language creating policy and process around racial and ethnic impact statements. Chair Boerner explained that at the last SGC meeting where members of the Minority and Justice Commission presented disproportionality data, there was general consensus that this was the direction to proceed. The SGC created a working group that produced the draft language.

The workgroup used the model for the fiscal impact statements but substituted the Caseload Forecast Council (CFC) as the agency responsible for preparing the racial and ethnic impact statement. Most of the data used for these statements resides within the CFC so it is expected that they will be able to produce the statements in a timely fashion.

He said the statements won't decide anything but provide the basis for discussion. Although the discussions are difficult, they need to happen.

A member asked if the SGC has ever considered allowing judges to consider options to incarceration based on offense classification. Chair Boerner mentioned the First Time Offender Waiver option and the exceptional sentence that allows judges to sentence outside the standard range.

Several members agreed that racial and ethnic impact statements should be included in legislative proposals. They noted that racial disproportionality is an important issue that needs to be addressed and this is one way to address it. Plus it seems to go along with evidence-based practices.

Chair Boerner noted that he has not received cost estimates from the CFC on the proposal as of that date.

Chair Boerner invited comments from members of the public.

Senator Kline offered to lobby the bill if he has assistance from other members.

V. SETTING THE CONTEXT FOR THE PRESENTATIONS

Lisa Daugaard from the Defender Association provided opening remarks related to racial disparity in incarceration, the role of drug enforcement and prosecution in generating inequities. She spoke on where we have been, where we might be able to go and what we may be positioned to do about that in Washington.

VI. RECORDED COMMENTS FROM JUDGE NANCY GERTNER

Comments from Judge Nancy Gertner, Retired Federal District Court Judge, Harvard Law School, were played at points during Lisa Daugaard's presentation.

Russ Hauge commented, and was confirmed by Bernie Warner, that the prison population currently consists of less than 9% of offenders sentenced for drug offenses. Mr. Hauge said that in 2002, the legislature enacted a major reform related to drug sentencing and, because of that reform, does not believe Washington is in a situation where judges are required to send someone to prison for minor drug offenses. He added that Washington state made substantial progress many years ago at addressing many of the issues that lately are coming to the attention of the federal government and other states.

VII. RELEASE OF RESEARCH ON THE IMPACT OF DRUG CONVICTION HISTORY ON CONFINEMENT AND RACIAL DISPROPORTIONALITY

Dr. Katherine Beckett, Professor at the University of Washington presented to Commission members her study results and suggestion to no longer include certain prior drug offenses when calculating offender scores.

VIII. Brief Q&A

A member inquired whether anyone had followed up with a fiscal impact on the suggested scoring changes. Dr. Beckett said not yet but thought that was a great idea.

A member of the public asked if any part of the study looked into the impact of the quality of English on the quality of justice received by a person. Dr. Beckett said she has not looked into that topic but something similar did come up with working on another project with ICE detainees.

IX. POLICY CONSIDERATIONS INVOLVED IN DISCOUNTING PRIOR VUCSA CONVICTIONS IN THE OFFENDER SCORE

Dan Satterberg provided comments on the research and suggested scoring change presented by Dr. Beckett.

X. Q&A

Bonnie Glenn inquired if anyone else across the nation has done anything similar to Dr. Beckett's suggestion before. Mr. Satterberg did not believe so.

Judge Yu asked if there was anyone has considered creating a workgroup to create a legislative proposal on this. Mr. Satterberg replied not that he was aware of.

Chair Boerner suggested that the SRA's wash-out times, 5 yrs on class C offense, 10 yrs on class B and life on class A offenses, might be a way to

address the historical issue. He went on to say he agreed with Mr. Satterberg's comment that perhaps we are mischaracterizing criminal history if we are using it as a proxy for likelihood of future crime.

Professor Boruchowitz inquired as to getting the fiscal impacts on the proposal. Dan Satterberg indicated that someone from the Caseload Forecast Council had offered to provide such impacts at one of the earlier workgroup meetings. Staff Keri-Anne Jetzer stated that the Caseload Forecast Council would be the best choice as they already have the necessary data and do that very type of work for legislative proposals. Professor Boruchowitz suggested the Minority and Justice Commission ask the Caseload Forecast Council to do that.

Judge Yu asked Minority and Justice Commission members if there was any objection to establishing a subcommittee and inviting the Sentencing Guidelines Commission to obtain further information on the scoring change. Russ Hauge noted his concern that, if the suggestion was presented as a cost-saving measure, there is a possibility that it could be misrepresented and he suggested focusing on the policy. Judge Yu said she thought collecting the all information, which would include any cost savings, before deciding how to present the proposal would be helpful. She added that she will be in contact with Chair Boerner to get the subcommittee started.

XI. ADJOURNMENT

The next full Sentencing Guidelines Commission meeting will be determined at a later date.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

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Dave Boerner, Chair

Date