



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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SENTENCING GUIDELINES COMMISSION

MINUTES

March 14, 2014 9am - noon
Criminal Justice Training Commission
19010 1st Avenue South Room C-214
Burien, WA 98148

Members Present:

Dave Boerner
Bernie Warner
John Clayton
Hon. Janice Ellis
Sheriff Paul Pastor
Hon. Maryann Moreno
Lenell Nussbaum
Rep. Mary Helen Roberts
Tim Wettack
Hon. Stanley Rumbaugh
Hon. Catherine Shaffer
Lynne DeLano
Ian Goodhew (proxy for Dan Satterberg)

Members Absent:

Senator Pam Roach
Senator Adam Kline
Rep. Brad Klippert
John Lane
Russ Hauge
Kathleen Kyle
Patrick Escamilla

Guests:

Ed Vukich, Caseload Forecast Council
Dave Elliot, Admin Office of the Court

Staff:

Keri-Anne Jetzer

I. CALL TO ORDER

Dave Boerner, Chair, called the meeting to order.

II. APPROVAL OF MINUTES

**MOTION #14-8: MOTION TO APPROVE FEBRUARY 2014
MEETING MINUTES**

MOVED: Judge Moreno
SECONDED: Lynne DeLano
PASSED: Unanimously

III. LEGISLATION UPDATE

a. Bill update

Keri-Anne briefed members of the status of bills the Commission had voted on during this session.

b. Juvenile justice task force

Chair Boerner informed the members that the SGC has a position on the juvenile justice task force that was created with the passage of 2SSB 5064. He will seek background information related to the addition of an SGC position on the task force before suggesting a representative.

Members indicated an interest in receiving updates by the SGC representative. Keri-Anne will add it to future agendas.

IV. DUI REVIEW

Chair Boerner informed the members that he was told the Governor's Office would be submitting a request to the Commission to review the driving while impaired issue, not so much the whole issue but how to fund various proposals. Chair Boerner was impressed with the comprehensive report completed by last year's impaired driving task force. As he understands it, there is substantial support for moving the line between misdemeanors to felonies, from four prior offenses to three. But that proposed legislation had a significant fiscal impact from additional incarceration and also from additional community supervision. One suggestion was to change other sentences and other crimes and apply those savings to fund a DUI change.

Judge Shaffer mentioned the success of the Drug Offender Sentencing Alternative (DOSA) and suggested a parallel to DOSA for the third time DUI offender as a cost-effective use of resources.

Lenell Nussbaum commented that she spoke to a DUI practitioner and was told that an unintended consequence of expanding the look-back period is that, when looking in the local jurisdictions, some of the offenses have been reduced in order to avoid the most draconian situations. When there are too many mandatory situations, the system responds differently than expected such as shifting the costs between the local and state government and that motivates the actors in the system.

Chair Boerner thought it was safe to assume that the request letter from the Governor's Office would come so he suggested they move in that direction. Instead of creating a sub-committee, the members agreed that the entire Commission would work on the issue. Chair Boerner asked Keri-Anne if she had heard about staff support. Keri-Anne replied that she had not but as regards data requests they would need to be sent to the Caseload Forecast

Council as she doesn't have that data any longer. She added that Dave Elliot from the Administrative Office of the Courts may be able to assist with data as well.

In discussions related to where money could be saved, Representative Roberts commented that they included the mention of excessively long sentences, such as the stacking of mandatory enhancements. Ian Goodhew mentioned that a bill was introduced this session that would make the first enhancement mandatory but whether subsequent enhancements would be consecutive or concurrent to the first would be at the discretion of the sentencing judge. He was unsure where it ended up.

Dave Elliot provided an overview of therapeutic courts (DUI, mental health, veterans courts, etc.) that exist under AOC. He said it was different than a deferred prosecution as the offender admits to the crime and if they fail out of the court, they go to jail. One of the concerns with these courts is that the treatment is funded by the offender. Members further discussed the use and merit of therapeutic courts.

There was a question on whether Medicaid covers treatment costs. Some members thought that treatment would be covered under the Affordable Care Act, however the reimbursement rates may be lower than others. A member questioned if part of the marijuana tax was supposed to be directed toward treatment.

Ed Vukich talked about the data related to counting prior DUI offenses and how quickly the bed impacts can increase. Bernie Warner added that prison population is based on the number of offenders coming into prison and the length of their sentence. Chair Boerner also added that sentence lengths are based on both the crime of conviction and the offender score. He explained that, according to the scoring rules for felony DUI, the prior DUIs are counted as 'priors' in the offender score. He thought that could be argued as double-counting; the three priors were counted to get to the felony status and then are counted again to lengthen the sentence. If only felony priors were counted, the sentence lengths would be shorter. He questioned what the primary driver of the language is, to drive longer sentences/incapacitation or to force people into treatment?

Chair Boerner asked the members if they wanted to meet in person for this project. Members agreed that discussions over the telephone were not conducive for this project and monthly in-person meetings would be needed.

Because the CJTC does not offer the ability for members to conference call into the meetings, Keri-Anne was asked to gather proposals from nearby hotels on the costs of renting a conference room. Other suggestions for meeting rooms included the RJC, City of SeaTac, and new transit facility.

Dave Elliot offered to check into the AOC room. Judge Shaffer offered to ask the Frye parking garage if they offered parking specials.

Chair Boerner indicated the April meeting will mainly be an informational meeting with subject matter experts to provide a baseline.

V. OTHER BUSINESS

Judge Shaffer asked about the outcome of the racial and ethnic impact statement that the Commission approved before the legislative session started. Chair Boerner informed members that Senator Darneille introduced a bill requiring the Caseload Forecast Council to produce an annual disproportionality report at which he testified in support of on behalf of the Commission. The bill did not pass.

Judge Shaffer would like to continue discussions and updates on the racial and ethnic impact statements. Keri-Anne will add it to future agendas.

Bernie Warner explained the federal Justice Reinvestment Initiative that Washington is vying for consideration. The areas that would be reviewed are sentencing and corrections. He believed there may be a role for the Commission in the review due to its expertise in sentencing matters.

VI. ADJOURNMENT

Next full Commission meeting will be on April 11, 2014, at the Criminal Justice Training Commission.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Dave Boerner, Chair

Date