



STATE OF WASHINGTON

**OFFICE OF FINANCIAL MANAGEMENT**

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**SENTENCING GUIDELINES COMMISSION**

**MINUTES**

**June 13, 2014 9am – noon**

Washington Association of Sheriffs and Police Chiefs

3060 Willamette Dr. NE #200

Lacey, WA 98516

Members Present:

Dave Boerner  
Bernie Warner  
Bonnie Glenn (proxy for John Clayton)  
Hon. Maryann Moreno  
Russ Hauge  
Lynne DeLano  
Hon. Stanley Rumbaugh  
Rep. Mary Helen Roberts  
Tim Wettack  
Hon. Catherine Shaffer  
Hon. Janice Ellis  
John Lane  
Cindy Arends Elsberry (proxy for Kathleen Kyle)  
David Montes (proxy for Lenell Nussbaum)  
Connor Edwards (proxy for Senator Pam Roach)

Members Absent:

Senator Adam Kline  
Sheriff Paul Pastor  
Dan Satterberg  
Patrick Escamilla  
Rep. Brad Klippert

Staff:

Keri-Anne Jetzer

Guests:

Clela Steelhammer, DOC; Ed Vukich, Caseload Forecast Council; Barbara Dennis, Kitsap County Prosecuting Attorney's Office; David Elliot, Kitty Hjelm and Renee Lewis, Administrative Office of the Courts; Shani Bauer – Senate Committee Services; Alice Zillah, Department of Commerce.

**I. CALL TO ORDER**

Dave Boerner, Chair, called the meeting to order and asked for introductions.

## **II. APPROVAL OF MINUTES**

### **MOTION #14-12: MOTION TO APPROVE MAY 2014 MEETING MINUTES**

**MOVED:** Judge Rumbaugh  
**SECONDED:** Russ Hauge  
**PASSED:** Unanimously

## **III. JUVENILE JUSTICE TASK FORCE UPDATE**

Keri-Anne, who presented at the task force meeting, informed members that the May meeting consisted of presentations on related data and information. Chair Boerner asked Shani Bauer for any additional comments. She said the next meeting would be looking at the decline process and automatic transfers.

Russ Hauge mentioned that the “Miller fix” passed by the Legislature earlier this year is being challenged in court. The challenge holds that the resentencing cannot go forward under the theory of ex post facto.

## **IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE**

### **a. Update of disproportionality table – Ed Vukich**

Ed Vukich briefed the members on how to read the tables and on what the data means. These are the data that will be posted on the Caseload Forecast Council’s website.

Judge Shaffer noted that it is generally the law enforcement officer input on the racial category of an offender that everyone tends to rely on. She suggested getting word out to police departments that officers need to be careful when they fill out the booking form or SIR. Russ Hauge noted that in his perspective race is generally is not a question that is asked of the offender by law enforcement and that the box will be filled out based on the officer’s observation. The reason is because if the officer is responding to something that is going to turn into a police report for a crime, inquiring of the offender their racial category could exacerbate an already tense the situation. He reported that he sees many reports where the box is blank.

Judge Shaffer added that after the arrest, when officers are booking the offender, many questions are asked, such as what is your name, what is your address, how old are you, etc. She thought that could be an opportune time to ask the offender to what racial category they identify. She also thought it would be helpful to educate AOC, the superior, district and municipal courts on how important it is to have Judgment and Sentence forms be accurate about how a person self-identifies their race. She acknowledged it won’t result in perfect data but it could make it better.

It was also suggested that the addition of a 'Mixed Race' category would be a good idea. Ed Vukich mentioned such an addition would require a change to the Judgment and Sentence form. Chair Boerner inquired whether there are many Judgment and Sentence forms that have multiple races listed. Ed offered to pull a sample of records with a race category of Unknown and see how many have multiple races listed.

Chair Boerner reminded members of the Minnesota study that found once crime is adjusted, race becomes fairly neutral with the exception of criminal history. He added that he has spoken to Steve Aos of the Washington State Institute for Public Policy to see if the study could be replicated in Washington. Steve indicated it could with existing data and with moderate costs. Chair Boerner wondered if the members would be supportive of the Commission recommending to the governor and the legislature that the WSIPP complete the study. Members were supportive of pursuing the recommendation so Chair Boerner said he will draft a proposal.

#### **V. DUI REVIEW**

Chair Boerner reviewed what has been discussed by the members at past meetings. He said he wasn't aware of any specific ideas any of the members wanted to move forward on however. Judge Shaffer said she would like to have a DOSA option for DUI offenders. Chair Boerner noted that a DOSA option wouldn't satisfy those who want to put DUI offenders in prison.

Chair Boerner repeated a comment made earlier by Russ Hauge that when an offender gets to this level, they have been through all kinds of treatment, deferred prosecutions, local probations, served a year in jail, and none of it has worked.

Keri-Anne informed the members that DSHS-RDA will provide brief analysis on the treatment histories of offenders who have 4 or more DUI penalties in their lifetime history, per interest exhibited at the previous SGC meeting.

Judge Shaffer added that the numbers of DUI offenders that get to this level are small but they do a lot of damage. She suggested proposing a DOSA-like alternative for those who are eligible and much longer prison terms for offenders who are not.

Tim Wettack commented that research shows that random checkpoints are very effective and wonders why hasn't someone tried to change the law to make them legal. Judge Shaffer reminded members that making random checkpoints legal would require a change to the state constitution.

Russ Hauge suggested that because the histories of DUI offenders differ, it would be helpful to identify the population who have exhausted all remedies

and would be expected to continue to drink and drive, like a DUI 1<sup>st</sup> degree and DUI 2<sup>nd</sup> degree. He noted that DUI is one of the few offenses where deterrence works.

Representative Roberts suggested that if the incarceration route is taken then creative methods are needed and members should approach this with the assumption that no new prison will be built.

Judge Shaffer suggested taking an offender’s blood/alcohol count into account as well since long-time drinkers tend to have higher tolerance levels.

Because attendance during July and August is usually sparse, Chair Boerner decided to cancel the meetings in July and August. He asked for volunteers for a workgroup that would continue working on this over the summer. The roll of the workgroup is to come up with a proposal based on the ideas discussed and report back to the SGC in September.

Judge Shaffer	Barb Dennis	Bernie Warner
Tim Wettack	Clela Steelhammer	Ed Vukich
Cindy Arends Elsberry		

**VI. OTHER BUSINESS**

Chair Boerner briefed the members on the Justice Reinvestment Initiative (JRI). He is the Commission representative on the JRI task force and the first meeting will take place June 24, 2014. He has asked the Council for State Governments (CSG), the group analyzing the data, to present to the Commission at some point down the road.

**VII. ADJOURNMENT**

**APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION**

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Dave Boerner, Chair

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Date