



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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**SENTENCING GUIDELINES COMMISSION
MINUTES**

November 20, 2015 9:00am – 12:00pm

Insurance Building (on Capitol Campus)

302 Sid Snyder Ave SW, Room 440

Olympia, WA 98501

Members Present:

Dave Boerner
Kathleen Kyle
Jon Tunheim
Patrick Escamilla
Sandy Mullins
Jennifer Albright
Hon. Stanley Rumbaugh
Tim Wettack
Kecia Rongen
Dan Satterberg
Hon. Roger Rogoff
Sheriff Paul Pastor
Kimberly Gordon
John Clayton
Hon. Catherine Shaffer
Rev. Terri Steward

Members Absent:

Dan Pacholke
Hon. Maryann Moreno
Rep. Brad Klippert
Rep. Sherry Appleton
Senator Cyrus Habib
Senator Pam Roach

Staff:

Keri-Anne Jetzer

I. CALL TO ORDER

Dave Boerner, Chair, called the meeting to order. He informed members that they were provided with a copy of a report from the Robina Institute at the University of Minnesota that concludes that criminal history is a major driver of prison populations and racial disproportionality in the Minnesota criminal justice system.

II. APPROVAL OF MINUTES

Meeting minutes were not brought up for a vote.

III. SECOND LOOK WORKGROUP REPORT

Judge Rumbaugh presented the decision process and results of the workgroup.

Members discussed the 3-strike and 60+ aged populations and why they should or should not be included in the proposal.

Carla Lee commented that King County has its own internal 3-strike initiative, focusing mostly on the Rob 2 offenses. They have found that victims are not in opposition if they are aware that the offender has received some rehabilitation. Of the 15 people they have supported in the past seven years, only 1 person reoffended.

Judge Rumbaugh said he expects this to be a two to three year process and hopes discussions will start now on this topic to help gain support. Sherriff Pastor said he would be in support based on two arguments, cost and incapacity, i.e. crime is a young man's game. Judge Shaffer added that she is on the fence as she would prefer to start with the 3-strikes population as she feels the violent population (found in the 60+ age population) most deserves to be in prison.

Sandy Mullins added that she thinks there is a danger in looking at this in terms of money. She went on to say that it's not a lot of money and also appears to put a cost on victims' pain. She believes that this is something that a moral argument should be made on. Sheriff Pastor agreed that morality needs to be primary but added that economics are the engine of us practicing our morality.

Tim Wettack talked to members about his experience volunteering at Monroe with long-term offenders and made an offer to all members to come to Monroe and see things for themselves.

Sandy suggested also considering offenders who would be considered 'developmentally' as kids who have life or very long sentences. Clela thought that a bill proposal from several years ago included the population of offenders under 25 for a second look review. Chair Boerner asked if she could provide a copy for members. Jon was asked what the prosecutor's association would think and he replied that he thinks they would likely support the 3-strikes population but would have a difficult time supporting a population containing Murder offenses.

Judge Shaffer suggested limiting the proposal to just the 3-strike offender populations but continue to explore the other populations discussed.

Chair Boerner commented that members may need more time to think about this so it will be added to the agenda for the December meeting.

IV. DOSA WORKGROUP REPORT

Jon Tunheim presented the results of the workgroup. The workgroup concluded that the hurdle to getting the bill passed was the fiscal impact and discussed ways to lessen that hurdle. He had queried his colleagues and found there seemed to be a general consensus that prosecuting attorneys would increase their likelihood to recommend residential DOSA to judges if the credit for time served while on community custody was removed. Unfortunately, there is no way to measure that and insert it in the fiscal note.

Jon noted that WAPA has discussed adding language to provide judicial discretion on the amount of credit for time served but they have not come to a specific recommendation on it. There was some concern about disparity while others were comforted by the idea that the discretion was not mandatory. Judge Rumbaugh suggested that adding a mandatory minimum may help.

Kathleen Kyle proposed adding a one year sunset clause that would allow time to gather data with a follow-up decision based on the results of the data.

The members would like to see number on people who would be affected and what WAPA thinks about adding judicial discretion to the proposal for the next meeting.

Judge Shaffer presented the information she provided to members. She recommended offering credit for time served for their in-patient time and leaving the law as it is currently for offenders who are out of custody. She believes this will offer incentive to offenders to get through the in-patient portion of the sentence and reduce the fiscal impact. Clela commented that the original fiscal note calculation already included credit for time served for the in-patient treatment so she's not sure that there would be much reduction in the fiscal impact. Judge Shaffer thought that adding the incentive to complete in-patient treatment to the fiscal note narrative may help legislators see the benefit. Judge Shaffer offered the use of her law clerk bailiff to help provide further language iterations.

V. RACIAL AND ETHNIC IMPACT STATEMENTS

Chair Boerner mentioned that he spoke at a workgroup hosted by Senator Hasegawa a few days ago. He mentioned that the Commission has supported this in the past and will likely continue to sponsor it.

VI. OTHER BUSINESS

Judge Rumbaugh said he continues to be disturbed regarding the lack of authority to spend state dollars on secondary education for offenders. Members wondered if there would be a bill related to that again this session. Clela said she wasn't sure but the State Board of Community and Technical Colleges might be proposing legislation.

Judge Shaffer asked if the Certificate of Restoration bill will be coming back. Dan Satterberg informed members that they just obtained support from Association of Washington Business so they will try again this year. Chair Boerner noted that this will be added to the next agenda.

Chair Boerner said the December meeting will be an in-person meeting.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

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Dave Boerner, Chair

Date