



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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**SENTENCING GUIDELINES COMMISSION**

**MINUTES**

**October 14, 2016 9:00am – 12:00pm**

Tukwila Community Center  
12424 42<sup>nd</sup> Avenue S Meeting Room A  
Tukwila, WA 98168

Members Present:

Dave Boerner  
Kathleen Kyle (Kimberly Gordon proxy)  
Richard Morgan  
Jennifer Albright  
Jon Tunheim (phone)  
Tim Wettack  
Kimberly Gordon  
Sonja Hallum  
Hon. Roger Rogoff  
Rev. Terri Steward (phone)  
Hon. Maryann Moreno (phone)  
Senator Pam Roach  
Kecia Rongen (phone)  
Hon. Stanley Rumbaugh  
Hon. Catherine Shaffer

Members Absent:

Rep. Brad Klippert  
John Clayton  
Sheriff Paul Pastor  
Senator Cyrus Habib  
Dan Satterberg  
Rep. Sherry Appleton

Guest Speakers:

Alex MacBain, DOC; Senait Brown, BlackOut WA and Black Prisoners Caucus (BPC); Janet Jones Preston, BPC; Kinte Perry, BlackOut WA and BPC and Village of Hope; Moon, BlackOut WA and BPC

Staff:

Keri-Anne Jetzer

**I. CALL TO ORDER**

Dave Boerner, Chair, called the meeting to order. He asked everyone to introduce themselves.

## II. APPROVAL OF MINUTES

### **MOTION #16-8: MOTION TO APPROVE MEETING MINUTES FROM APRIL AND JUNE 2016**

**MOVED:** Judge Shaffer  
**SECONDED:** Judge Rumbaugh  
**PASSED:** Unanimously

## III. REDUCING JAIL OVERCROWDING AND RACIAL DISPARITY IN SPOKANE COUNTY

The presentation was cancelled due to the weather impacting the presenters' flights from Spokane.

## IV. SENTENCING COMPLEXITIES

Secretary Richard Morgan spoke about the complexities in sentencing. He noted that the two main sources are the way Judgement and Sentence (J&S) forms are provided to the DOC and that the Sentencing Reform Act (SRA) is about 15 years past a review. The SRA is 34 years old and experts believe that criminal code should be examined and revised every twenty years. Alex MacBain presented findings from DOC's review of sentencing complexities. His summary points are:

- Sentencing structure is complex and ever-changing.
- J&S forms are not standardized and can be difficult to read and interpret.
- The work of DOC Records staff is highly technical.
- Continually changing sentencing policies makes OMNI programming complicated.
- Sentencing complexity exposes the State to risk and liability (public safety, legal, financial).

Jennifer Albright asked Alex for suggestions on where the SGC would be able to offer its assistance. Alex said there has been discussion about standardized J&S forms or a worksheet. The unknown is where the change request would come from, an SGC or DOC legislative proposal or as a court order. He also suggested having a global perspective of the sentencing structure to see that it is still consistent with the original intent, which is something that was under the purview of the SGC when it was created.

Chair Boerner mentioned that there is a legislative proposal to create a task force to make recommendations regarding how the SRA can be simplified. Members discussed the Commission working on the task instead of the legislatively proposed task force, which is very similar membership to the Commission. Kim Gordon suggested having one main body such as the Commission completing reviews would be not only help deal with current

issues but also set up a process to deal with future issues. Judge Shaffer suggested it may be helpful if the legislature was provided with the impacts their proposed sentencing changes would have on the SRA. Chair Boerner explained to members such a review would be an enormous task and meeting once per month for three hours would not be enough. He offered to convene a small subgroup of judges, prosecuting and defense attorneys to create a list of issues to present at the December Commission meeting. Judge Rumbaugh suggested that DOC provide an outline of the areas of greatest conflict.

Kim Gordon asked if the Commission should be keeping an eye on the legislative proposal in case the task force is created but the Commission has already started its work. Judge Shaffer suggested contacting Senator Padden to let him know of the Commission's interest in the task. DOC offered to contact Senator Padden in that regard.

#### **V. SECOND LOOK PROPOSAL FOR THREE-STRIKES OFFENDERS - UPDATE**

Chair Boerner updated members on the proposal. He mentioned that Jon Zulauf has been successful in organizing a group of pro-bono lawyers in King County to represent individuals, most serving three strikes sentences but it may not be limited to that. Chair Boerner said that there are members of the audience who would like to speak to the Commission about a similar proposal they are putting forth called the Community Review Board.

Senait Brown, the political director of BlackOut Washington, presented the Community Review Board legislative proposal as drafted by the Black Prisoners Caucus. She said it is a holistic and systematic approach that would allow folks to be reviewed and released after 15 years of incarceration. They are moving forward with the legislation and asked if the Commission would join them. Judge Shaffer asked if they had a draft of the bill and sponsors. Senait indicated they had both and she was asked to provide the draft to Keri-Anne for distribution to members. Other audience members spoke about the issues, too.

Commission members discussed the presentations. Judge Shaffer noted that there seemed to be overlap in areas of concern between the Commission and the presenters. She wondered if there was any way to establish an on-going link with them to make sure everyone is aware of the work that is happening. Victoria Cantore, from the Senate Democratic Caucus, said that Senator Darnielle has been working with the Black Prisoners Caucus on the Community Review Board. She said the senator had hoped to be at today's meeting to hear about the Commission's Second Look proposal. Since the Senator Darnielle has been working on this proposal with them, Victoria thought the senator would be happy to be the conduit between the Commission and the Black Prisoners Caucus as the discussions move forward.

**VI. OTHER BUSINESS**

Keri-Anne informed members that she has been attending task force meetings on behalf of the Commission. The Human Trafficking task force met last month but she was unable to attend. The Reentry Council meeting takes place next week Tuesday and she will report back. She also met with the Caseload Forecast Council (CFC) regarding the recommendations on the racial and ethnic impact statements the CFC was tasked with. She said that the CFC has gathered information and looks to be providing a few options.

**VII. ADJOURNMENT**

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

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Russ Hauge, Chair

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Date