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SENTENCING GUIDELINES COMMISSION

September 8, 2017

TO: Sentencing Guidelines Commission Members

FROM: Chair Hauge

SUBJECT: Course Correction

In our last meeting, we discussed an approach to SRA reform that would rest on one substantive change to adult felony sentencing: a sentencing grid that could be used, in an exercise of judicial discretion, to sentence any offender before the court if he or she was between the ages of 16 and 26. The legislature did not provide funds for a comprehensive review of our sentencing scheme. And while the members of the Commission all see the need for a comprehensive review, we also see a lot that needs fixing right now. A grid for youthful offenders was proposed as a way to address at least some of the issues caused by our current sentencing practices.

To the Commission's credit, the membership bristled a little at the suggestion that we take a step back from taking on the whole Sentencing Reform Act. The problem remains that we use a sentencing system that was developed more than a generation ago and that rests on corrections concepts that have been disproven. Taking one bite, even a big one, suggests that Washington can live with an outdated system if we are clever enough with our patch kits.

As chair, I suggested the targeted fix strategy. A targeted proposal from the Commission would show the legislature that much has been learned about corrections in the last 40 years and that by incorporating what we now know we can have safer communities, allow individuals to recover from addictions and bad choices, and save money. Ideally, this exercise would identify the Commission as a partner that can share the larger burden of wholesale SRA reform.

But after the last meeting, I think it is accurate to say that the Commission is reluctant to retreat from the work that needs to be done. What then is our next step? With our current funding, a comprehensive review of the SRA would be a huge lift. We can ask for favors from the Caseload Forecast Council and Washington State Institute for Public Policy, but purposeful data collection and analysis are beyond our grasp. Getting us together once a month is about all we can afford.

Whatever we do, we must keep a comprehensive review of the SRA in focus. I don't recall who at our last meeting asked what struck me as the most penetrating question: What is it about the proposal put forth last month that will make the SRA simpler and easier to use? I had to answer (under my breath), "not much."

Any proposal should make adult felony sentencing simpler—that is more rational, consistent, and purposeful. Our state needs to respond to the opioid crisis. Perhaps we could suggest expanding the current drug grid, with its emphasis on treatment, to offenses beyond drug possession, manufacture, and sale. Through the prison-based and residential Drug Offender Sentencing Alternatives, we offer treatment as a function of sentencing. There is work to do here. The programming and administrative practices (good time credit and eligible offenses, for example) for these alternatives would benefit from our attention. We may be able to simplify and improve our response to drug-fueled crime.

We have also committed ourselves to come up with a way to offer post-conviction sentence review. Although we have consensus on the need for some improvements to this part of the system, we are far from an organized and comprehensive proposal. But maybe not so far that we could not hit the deadline for agency request legislation. If we reach far enough in suggesting post-conviction relief, we could count on interest in the legislature.

I consider it decided that we will spend a major portion of our time and effort in developing a plan to bring Washington adult felony sentencing into line with current evidence-based best practices. We have done a lot of work identifying issues and concepts that need to be addressed and incorporated. We need to develop—and commit to—a process to turn our work into a functioning sentencing scheme. I hope that you all consider this the right track to take. We should have time to discuss after our presentations next meeting. Thanks.