



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

SENTENCING GUIDELINES COMMISSION

MINUTES

April 11, 2014 9am – noon

Criminal Justice Training Commission

19010 1st Avenue South Room C-214

Burien, WA 98148

Members Present:

Dave Boerner
Bernie Warner
Patrick Escamilla
Barbara Dennis (proxy for Russ Hauge)
Lenell Nussbaum
Rep. Mary Helen Roberts
Tim Wettack
Hon. Catherine Shaffer
Kecia Rongen (proxy for Lynne DeLano)
Dan Satterberg
Kathleen Kyle
Senator Pam Roach

Members Absent:

Senator Adam Kline
Rep. Brad Klippert
John Lane
John Clayton
Hon. Janice Ellis
Sheriff Paul Pastor
Hon. Maryann Moreno
Hon. Stanley Rumbaugh

Staff:

Keri-Anne Jetzer

Guests:

Ed Vukich, Caseload Forecast Council
Patricia Fulton, WA Association of Criminal Defense Lawyers
Tom McBride, WA Association of Prosecuting Attorneys
Jon Tunheim, WA Association of Prosecuting Attorneys
Sandy Mullins, Governor's Office
Brittany Sill, Association of WA Cities
Shelly Baldwin, WA Traffic Safety Commission

I. CALL TO ORDER

Dave Boerner, Chair, called the meeting to order.

II. APPROVAL OF MINUTES

MOTION #14-9: MOTION TO APPROVE MARCH 2014 MEETING MINUTES

MOVED: Judge Shaffer
SECONDED: Dan Satterberg
PASSED: Unanimously

III. JUVENILE JUSTICE TASK FORCE UPDATE

Chair Boerner informed members that the juvenile justice task force has not yet started.

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE

Chair Boerner informed members that there is no update on the racial and ethnic impact statement topic.

Judge Shaffer hoped the Commission would continue to discuss the issue and perhaps who to contact to make sure it gets a more attention than it did before.

The members discussed the possible reasons this topic did not make it further in the legislature. Some reasons included:

- Legislators' discomfort with the idea that disproportionality existed in the criminal justice system
- Would a new database be needed to collect the data?
- Questions on whether the REIS should be requested for any proposed legislation or not
- Was OFM fearful of the fiscal notes' unrealized fiscal consequences such as with the McCleary decision?

Dan Satterberg suggested that, if the data is something that is already collected, it could automatically be included in a fiscal note; thereby, removing the need to legislatively mandate it.

Chair Boerner suggested that if any members are interested on participating on a subcommittee to sit down with staff in different legislative committees that they should contact him.

Sandy Mullins suggested discussing with the Caseload Forecast Council what it would take to produce an annual report on disproportionality as it would provide a baseline at least.

V. **DUI REVIEW**

Chair Boerner asked Sandy Mullins of the Governor's Office to talk about what the Commission is being requested to do. Sandy said when the Impaired Driving Task Force created last year was asked to do a review it was to be without consideration of resource limitations. Legislation was proposed this year that was in the list of recommendations from the task force but there was no funding available for it. The Commission is being asked to take the next step and look at the task force's report, the omnibus bill, and practices from other states and make further recommendations. Those recommendations could include legislative changes or a clean-up. It could include the need to take a closer look at statutes which would not doable as an interim project.

Chair Boerner referred to meeting materials on DUI courts. Members discussed aspects of DUI courts such as if it is a model that would be used on the population being targeted, repeat offender vs new offender, high risk vs any risk, need for proper court design, European concepts.

Jon Tunheim spoke about the success of drug courts in Thurston County. Shelly Baldwin of the WA Traffic Safety Commission was asked if therapeutic interventions were effective on high-risk DUI offenders. Shelly responded that for high-risk, high-blood/alcohol content repeat offenders, treatment through a DUI court is an effective tool. She added that the most effective tool would be checkpoints combined with high visibility DUI enforcement as they increase the public perception that they could get caught. Patricia Fulton of the WA Criminal Defense Lawyers association informed members that the WA Supreme Court decided it would violate the state constitution. She suggested that emphasis patrols would increase visibility without violating the constitution.

Tom McBride posed two questions to the Commission based on questions asked of him during the last session: 1) is prison the right approach for repeat DUI offenders? and 2) which prison offenders should be removed from prison to make room for the DUI offenders?

Chair Boerner stated that two benefits of making a DUI offense a felony would be 1) giving prison time and 2) giving community supervision terms. Members discussed the support of literature for a treatment component to be included with any community supervision.

Representative Roberts asked about the use of ignition interlock devices (IID). A guest told members that, in her experience, IIDs are great in theory but not as much in practice. Unless there is a SCRAM (Secure Continuous Remote Alcohol Monitoring) bracelet along with the IID, offenders can and will find ways to tamper with or override the IID. Shelly Baldwin stated that studies have shown that IIDs do reduce recidivism. She added that the WA Traffic

Safety Commission just completed a study on IIDs that showed the longer the term issued for the IID, the less likely the offender is to recidivate.

Tom McBride reminded members that legislators are already supportive of deferred prosecution and DUI courts. What they are interested in learning is what to do when those options fail, what to do with the 6th or 7th time offender. Chair Boerner brought up the prison DOSA sentence for DUI offenders that was suggested at the last meeting.

Chair Boerner asked Ed Vukich of the Caseload Forecast Council to walk members through the DUI offset proposals he provided.

Sandy Mullins asked if Shelly Baldwin could provide some research on the topic since she had worked with the topic so extensively.

Lenell asked if there was data available on the misdemeanor DUI offenses and the number of deferred prosecutions. Ed Vukich said he now has jail data and may be able to provide something. Chair Boerner said he would work with Ed to provide some numbers.

VI. OTHER BUSINESS

a. Alternative meeting locations

Keri-Anne provided to Chair Boerner and Bernie Warner pricing for alternative meeting locations since the Criminal Justice Training Commission does not have the capability for members to teleconference in. The problem is that SGC does not have a budget.

Someone suggested that since the CJTC has WiFi that perhaps Skyping is a possibility. Someone suggested the Washington Association of Sheriffs and Police Chiefs Headquarters. Another member suggested Highline Community College or the state Girl Scout Headquarters in Dupont.

The members asked if it was possible to meet quarterly in Olympia. Chair Boerner thought that could happen.

VII. ADJOURNMENT

Next full Commission meeting will be on May 9, 2014, at the Criminal Justice Training Commission.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

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Dave Boerner, Chair

Date