



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

PO Box 40927 • Olympia, Washington 98504-0927

(360) 407-1050 • FAX (360) 407-1043

MINUTES

SENTENCING GUIDELINES COMMISSION

March 14, 2008

ROLL CALL Members Present:

Dave Boerner
Rep. Sherry Appleton
John Clayton
Ned Delmore
Hon. Tari Eitzen
Dr. Lynda Ring Erickson
Hon. Ellen Fair
Russ Hauge
Ann Heath
Michael Kawamura
Hon. Ronald Kessler
Tim Killian
Hon. Dean Lum
Lenell Nussbaum
Mary Ellen Stone
Eldon Vail

Members Absent

Ida Ballasiotes
Michael Brasfield
Jeri Costa
Lucy Isaki
Adam Kline
Pam Roach
Jay Rodne

Staff Present

Jean Soliz-Conklin	Thuy Le
Razak Garoui	Duc Luu
Keven Ivers	Stevie Peterson
Keri-Anne Jetzer	Teresa Waller

Others Present:

David Daniels, Department of Corrections (DOC); Karen Daniels, DOC; Seth Fine, Asst. Chief Criminal Deputy Snohomish County Prosecutor's Office; Rick Larossa, Indeterminate Sentencing Review Board (ISRB); Carl McGurley, Administrative Office of the Courts (AOC); Ginger Richardson, Washington Federation of State Employees; Victoria Roberts, ISRB; Clela Steelhammer, DOC; Anne Fiala, DOC; Tom Saltrup, Director of Behavioral Health, DOC; Edward Valachovic, AOC; Jim Thatcher, DOC; Mike West, King County Department of Adult & Juvenile Detention.

CALL TO ORDER: The Chair, Dave Boerner, called the meeting to order at 9:13 a.m. and welcomed members and guests. The minutes will be presented for action at the April 11th Commission meeting.

STAFF REPORT: Jean Soliz-Conklin, Executive Director to the SGC, lead the discussion on SGC's position on a number of bills the legislature is reviewing. Those bills included: SB 6898, the grid expansion bill; SB 6544, moving criminal mistreatment to a new seriousness level; SB 5343, raising the threshold dollar amount on theft; and HB 2968, taking crimes against person out of guidelines.

SGC DATABASE OVERVIEW:

Duc Luu, SGC's Database Program Manager, presented a PowerPoint briefing about the SGC database, explaining the purposes, data collection and processing procedures, quality assurance, and management performance plans. (Please see the attached PowerPoint.)

COMMUNITY CUSTODY OVERVIEW:

Keri-Anne Jetzer, SGC's Research Investigator, led a presentation regarding the facts related to Community Custody in Washington State. Keri set the context with an outline of which offenders go onto community custody. (Please see the attached PowerPoint)

Anne Fiala, DOC's Assistant Deputy Secretary, Community & Transition Services for the Community Corrections Division, presented an overview of the Community Supervision process and the major sentencing changes impacting community sentencing caseloads. Clela Steelhammer, DOC's Budget Manager for Community Corrections Division, presented data on where offenders are placed on community custody by counties in Washington. (Please see the attached charts.)

Dave Boerner, SGC's Chair, led a discussion to set up a process for reviewing supervision issues and making recommendations. He began by asking the Commission what further information they would like. On April 11th the Commission would like to be briefed about:

- a) How many people are in each category of community custody?
- b) How effective is supervision? (What post-release or post-discharge information do we have?)
- c) What does DOC do to further successful reentry and what is done by informal and formal community resources?
- d) Data on the availability and the cost of treatment (including DOSA)
- e) Data on the varied practices and philosophies of CCO's around the state (added later)
- f) Data on the system before the SRA (added later)
- g) Static Risk Instrument (added later)
- h) Travis County Model (added later)

AT THIS POINT THIS DISCUSSION WAS SUSPENDED TO CONNECT BY VIDEOCONFERENCE WITH DR. LATESSA.

COMMUNITY CUSTODY – THE RESEARCH

Edward J. Latessa, Ph.D. and Head of the Division of Criminal Justice at the University of Cincinnati presented to members a Power Point entitled “Improving the Effectiveness of Community Correctional Programs through Research”. (Please see the attached PowerPoint)

After the presentation, the audience asked questions of Dr. Latessa. Snohomish County Prosecutor, Seth Fine, asked if Dr. Latessa supported the Steve Aos findings in the October 6, 2007 Washington State Institute for Public Policy (WSIPP) Overview of Evidence-based Policy Options. Dr. Latessa said, “Yes” and commented favorably on the scientific protocols use by WSIPP.

DOC’s Assistant Secretary, Karen Daniels, asked Dr. Latessa if he was familiar with the new static risk assessment instrument developed by WSIPP and proposed implementation this summer. He said “yes” but commented he feels the instrument is not a major advancement because it does not factor in dynamic factors, thusly, making it invalid for use to measure change in risk. He also reported the instrument is not useful in assessing programming needs. DOC’s Secretary, Eldon Vail, clarified that a second programming assessment will be used for that purpose.

Kitsap County Juvenile Court, Ned Delmore, asked if Dr. Latessa was familiar with the assessments used by Washington State Juvenile Courts. He said he was, and that the assessments are effective. Some of the instruments which could be transferable to adults are the cognitive, ART, aggression therapy and skill building tools.

Community Corrections Officer Ginger Richardson noted the research showing that supervision should focus on the highest risk offenders and asked Dr. Latessa if he could report on studies pertaining to caseload size for CCO’s. He responded that there is not a lot of empirical research on the subject, but a study is underway in Canada which may be helpful in the future. He reiterated that cost effective supervision requires a lot of services and programming, and advises Washington to ensure the Community Corrections Officers focus on needs assessments as well as risk.

In response to a question from Commissioner Tim Killian about law enforcement practices research, Dr. Latessa referred the group to research by John Eck about “problem-oriented policing”. He cautioned commissioners to remember that many public practices are not based upon risk or needs principles as there are other pressures as well.

Judge Ellen Fair asked about the role of judges in determining programming for offenders. Dr. Latessa said that practices vary quite a lot and referred the commission to Illinois, where judges are trained on evidence-based sentencing. Commissioners discussed the fact that good programming decisions by the courts need to be based on good assessments, and that plea bargaining approvals may be problematic in an effort to follow the research as well.

Karen Daniels asked about model programs using good assessments and was referred to Travis County, Texas and Cedar Rapids, Iowa. John Clayton, DSHS Asst. Secretary, asked about Washington State's Juvenile programs and Dr. Latessa gave us high marks. He referred commissioners to his website at www.uc.edu/criminal for studies.

Chairman Boerner thanked Dr. Latessa for his time and expertise.

COMMUNITY CUSTODY OVERVIEW, CONTINUED:

The Commission resumed its discussion about the next steps in discussing the policy issues related to community custody.

Judge Ellen Fair reported that the judges were discussing their policy positions and that it is clear they want more discretion about supervision. She added that they clearly need to make decisions based on adequate pre-sentence information. Dave Boerner pointed out that the lack of information at sentencing was one reason the legislature shifted more of the supervision decisions to the correctional system.

Judge Ron Kessler commented on the complexity of plea bargaining as it is often based upon proof problems and not on the needs of an offender or the community. Kitsap County Prosecutor, Russ Hauge, reminded the group that the punishment purposes of sentencing must also be remembered. Dave Boerner reminded the group that "rehabilitation" was expressly rejected in the early 80's but had become more important in light of recidivism studies, raising the question of when to assess risk. There is also the question of jail population versus prison populations and the possibility of different systems of sentencing.

Judge Tari Eitzen pointed out that prosecutors, judges, and the Department of Corrections all need better information to make the system more effective. She would like some information and discretion to make at least general requirements, so the commission could consider layers of discretion.

Judge Fair said that sentences can include both punishment and programs to lower recidivism; and that the timing for this discussion is good because of the legislature's imminent reconsideration of the 50% good time law.

Commissioner Tim Killian said that policies need to respond to the real risk factors. Representative Sherry Appleton said that education needs to be a part of the discussion as well.

The Chairman concluded the discussion by suggesting the SGC lay out recommendations that include the best model and steps based upon affordability, and recommended a revisit to the AOS study which suggests scenarios.

Mason County Commissioner, Lynda Ring- Erickson, cautioned the group that we don't need to revisit the past and requested information on the system as it existed before the Sentencing Reform Act was enacted.

Judge Fair suggested we develop a schedule that works backwards from December 1st, by which time the commission needs to have recommendations to the legislature. She suggested that subgroups may eventually be necessary. Dave Boerner asked staff to develop a proposed work plan for the April meeting. Tim Killian suggested we may wish to incorporate online discussions, and staff will investigate that possibility.

Eldon Vail, Secretary of the Department of Corrections, suggested the commission remain conscious of the tension related to whether we need to “go somewhere different” versus “managing what we have” and mentioned that DOC is steering its processes toward a more cognitive approach as indicated by the research. He also reminded the group that tort liability needs to be a consideration because of Washington State’s unique waiver of sovereign immunity, which significantly impacts the practices of DOC.

ADJOURNMENT

The meeting was adjourned at 12:00 p.m.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

Dave Boerner

Date

Jean Soliz-Conklin

Date

