



STATE OF WASHINGTON
SENTENCING GUIDELINES COMMISSION
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MINUTES

NOVEMBER 14, 2008

ROLL CALL Members Present:

Dave Boerner
Hon. Ellen Fair
Dan Satterberg
Russ Hauge
Hon. Stephen Warning
Anne Heath
Sen. Pam Roach
Sen. Adam Kline
Tim Killian
Rep. Sherry Appleton
Ned Delmore
Hon. Tari Eitzen
Lucy Isaki
Lenell Nussbaum
Mary Ellen Stone
Eldon Vail-Scott Blonien

Members Absent:

Ida Ballasiotes
John Clayton
Jeri Costa
Lynda Ring Erickson
Michael Kawamura
Rep. Kirk Pearson
Hon. Dean Lum

Staff Present:

Jean Soliz-Conklin
Shannon Hinchcliffe
Andi May

Others Present:

Shani Bauer, Senate Committee Services; Keven Black, Senate Committee Services; Scott Blonien, Department of Corrections (DOC); Genevieve Davis, Senate Republican Caucus; Seth Fine, Asst, Chief Criminal Deputy Snohomish County Prosecutor's Office; Regina McDougal, Administrator of Office of the Courts (AOC); Teresa Mathis, Washington Association of Criminal Defense; Hon. Kathleen O'Connor, Spokane County Superior court; Ginger Richardson, Wa Federation of State Employees (WFSE); Tom Sahlberg, Indeterminate Sentencing Review Board, Clela Steelhammer, Department of Corrections (DOC); Mike West, King County Department of Adult & Juvenile Detention.

I. CALL TO ORDER

Dave Boerner, Chair, called the meeting to order at 9:15 a.m. and thanked King County Superior Court Judge Ronald Kessler for his service to the Commission. He also announced two new appointees, King County Prosecutor Dan Satterberg and Cowlitz County Superior Court Judge Stephen Warning. Dave reported that Kitsap County Prosecutor Russ Hauge, Washington Association of Washington Cities Representative Ann Health (Pullman City Council) and Citizen Representative Ida Ballasiotes had been reappointed by the Governor.

II. APPROVAL OF MINUTES: October 10, 2008 (Item Postponed)

Jean Soliz-Conklin apologized, explaining that the minutes were not yet ready for approval.

III. EXECUTIVE DIRECTOR'S REPORT

a. Governor's Appointments to the SGC

Ms. Conklin skipped this item, as the Chairman had made the announcements.

b. Budget Reduction Measures

Commissioners were told of administrative cuts being taken in light of the revenue shortages.

c. Fiscal Note Preparation

The Commission was briefed on the process and improvements of the fiscal note function of the Commission, which is critical to state budgeting. Included in the Discussion, led by Research Investigator Keri Anne Jetzer, was a discussion of how the SAGC-led Fiscal Note Workgroup meets each Fall to discuss assumptions, solve data issues, foster data sharing and other issues related to the cross-agency process. **(See handouts.)**

d. Community Custody Range Modification Update

Ms. Conklin reminded the Commission that the 2008 gang bill required an addition to the community custody ranges promulgated by the Commission through the state agency rulemaking process. She told them she would be initiating rulemaking process within the near future, with their oversight and votes.

IV. ATTORNEY GENERAL ROB MCKENNA'S SENTENCING REFORM PROPOSAL FOR REPEAT/SERIAL DOMESTIC VIOLENCE OFFENDERS

Attorney General Policy Director Chris Johnson presented background materials and a described the Attorney's General's proposed sentencing modifications to the Commission. **(See handouts.)**

Mr. Johnson said that the Office of the Attorney General does not prosecute domestic violence, but is acting as a partner with prosecutors in this effort, particularly with Deputy Prosecutor David Martin, Chairman of the Task Force. Mr. Martin explained that no comprehensive data exists to track the number and type of domestic violence offenses, because courts often do not need to make a finding of domestic violence under current sentencing practices. Therefore, we do not have recidivism data.

A discussion ensued about how current aggravating factors could be used to enhance sentences of individuals who are shown to recidivate, rather than taking the step of beginning to count misdemeanors in the offender score as proposed. Mr. Martin laid out some examples as to when the aggravating factors were insufficient. Some Commissioners suggested that legislation to modify those would be easier and not change the structure of the Sentencing Reform Act.

The Commission is asked to consider supporting modifications to statute proposed by a task force convened in King County in 2007. Senate Bill 6311 was sponsored by Senator Jim Hargrove in 2008 and tabled until further conversations could take place in the community.

V. COMPETENCY EVALUATION/RESTORATION BILL

Former SGC Commissioner Ronald Kessler, King County Superior Court Judge, recapitulated past SGC discussions about draft legislation recommended by a task force convened by the DSHS Division of Mental Health in 2007 with help from Senate Counsel Kevin Black. (See **handouts.**)

MOTION # 1018 SUPPORT THE COMPETENCY EVALUATION/RESTORATION BILL

Moved: Judge Fair;

Seconded: Judge Warning;

2opposed (?); abstentions Russ Hauge and Dan Satterberg

VI. COMMUNITY CUSTODY

Chairman Dave Boerner opened the discussion of community custody by referencing materials developed by staff related to “ideas on the table” for Commission discussion.

Seth Fine clarified that the letter from Snohomish County Prosecutor Janice Ellis summarized discussion within an informal workgroup on which she participates, and are not intended to represent the Washington State Association of Prosecuting Attorneys or any other entity.

At Commissioner Ann Health’s suggestion, the group talked about how important it is to address the issue of liability up front in the discussion. Senator Pam Roach suggested that “avoiding unfunded mandates” is political and not appropriate as a principle.

After an in depth discussion recapitulating the research presented to the Commission over the past year as well as the concepts, Dave was informally asked by the Commission to create a planning committee in cooperation with the Sentencing and Supervision Workgroup of the Superior Court Judge’s Association.

VII. Lunch

Commissioners may continue their conversation during lunch.

VIII. Adjournment

Dave Boerner adjourned the meeting at 12:05

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

Dave Boerner

Date

Jean Soliz-Conklin

Date