



STATE OF WASHINGTON
SENTENCING GUIDELINES COMMISSION
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Minutes
Friday, December 10, 2010
9 a.m. to Noon
Office of the Attorney General
800- 5th Ave. 20th FL
Seattle, WA 98104

Members Present:

Dave Boerner
Dan Satterberg
Secretary Vail
Hon. Ellen J. Fair
John Clayton
Hon. John Meyer
Lenell Nussbaum
Lucy Isaki
Michael Kawamura
Russ Hauge
Tim Killian

Members Absent:

Sen. Adam Kline
Hon. Dean Lum
Lynda Ring Erickson
Lynne N. DeLano
Mary Ellen Stone
Ned Delmore
Sen. Pam Roach
Sheriff Paul Pastor
Rep. Kirk Pearson
Rep. Sherry Appleton
Hon. Stephen Warning

Staff Present:

Sandy Mullins
Andi May

Others Present:

Seth Fine, Snohomish County Prosecutor; Hon. Kathleen O'Connor, Spokane Superior Court Judge; Teresa Mathis, Washington Association of Criminal Defense Lawyers; Gary Bohon, Department of Corrections; Beth Colgan, Columbia Legal Services; Melissa Lee, Columbia Legal Services.

I. CALL TO ORDER - DISCUSSION

Dave Boerner, Chair, Called the meeting to order at 9:05 a.m.

II. APPROVAL OF MINUTES

MOTION# 10-14 APPROVE THE OCTOBER & NOVEMBER 2010 MINUTES

Moved: Hon. Ellen Fair

Seconded: Michael Kawamura

Passed: Unanimously

III. EXECUTIVE DIRECTOR'S REPORT

SGC educational program for legislators:

Staff is trying to get the SGC lined up for presentations to the caucuses but not having much luck.

2010 Adult Sentencing Guidelines Manual Supplemental:

Staff is working on a 2010 supplemental for our manual and then explained to members that the 2006 interactive scoring pages on the website were no longer working now that the website was on the DIS servers. She described how Lenell had written up a good letter of explanation and distributed on the defense counsel listservs, inviting them to contact their legislators to explain the importance of having an accurate and readily-available manual.

Race and the Criminal Justice System Task Force:

The SGC is participating in the Research Workgroup of a new task force, which is primarily a collaboration between Seattle University School of Law and the University of Washington School of Law.

Additional Budget Cuts:

The Governor's proposed supplemental budget for FY 2011 would have the SGC taking an additional \$44K cut for this biennium.

February Meeting Location:

Commission meetings will be moving back to the Criminal Justice Training Center. Joe Hawe, a former member of the SGC, is now the Executive Director of the CJTC, and he has agreed to let us use that facility free of charge.

Twenty Years in Sentencing Report:

Due to budget cuts, we will not be producing a professionally printed version of the report, but we can print copies of the report on our office printer for those who would prefer a paper copy.

Violators Report:

Members were invited to take a look at this report and contact the SGC office if they have any corrections or comments.

Legislative and Juvenile Justice Committees:

Sandy and Rep. Appleton are getting together the Juvenile workgroup for a conference call in January. The Legislative Committee (Dave Boerner, Russ Hauge, Lenell Nussbaum, and Judge Warning) will meet via teleconference during the legislative session on Tuesday mornings at 7:30 am.

Fiscal Note Adjustments:

Sandy explained about our fiscal note process and a proposed discount factor process to apply to our fiscal notes using the expertise of our Commission members with the understanding that we would not be able to do it for every bill. Dave Boerner suggested that that perhaps we could add some additional analysis from WSIPP. Russ Hauge asked if we should spend some time on the process so it can be more consistent. Sandy let members know that she would work on a process and work with the Leg. Committee.

Overview of SGC Functions:

Sandy gave an overview of what the SGC staff is working on in the office. She included the template for our staff meeting agendas in the packet of materials.

There was some conversation about a possible consolidation of SGC. Dave let members know that there isn't anything on the table as of right now but we need to be thinking about it because, like all state agencies and programs, we were potentially going to have to face additional costs or consolidation.

IV. SEX OFFENDER POLICY BOARD (SOPB) –UPDATE

Sandy gave a brief update on the Reyes Case review, explaining, the review process, and the recommendations. Russ Hauge commented that this was one of the most useful functions of the SOPB..

V. LEGISLATIVE REQUESTS - ACTION

Collateral Consequences Ad Hoc Committee:

Dave Boerner explained to members that he and Sandy met with Rep. Hurst, who clarified that the state did not have money to put towards this issue. Dave is getting a colleague from the law school to help coordinate law students to help compile a list of collateral consequences to build on the list that is being compiled by the ABA with BJA funding. There will not be a bill introduced this year but it will be discussed in a Public Safety and Emergency Preparedness Committee work session. There was some discussion among members as to the current policies with regards to collateral consequences.

Gang Bill:

The SGC was asked to do a fiscal note on the gang bill, but is having difficulty arriving at an estimate due to the nature of the bill.

Three Strikes

Dan Satterburg explained the persistent offender bill he is working on, which will be sponsored by Sen. Kline.

Break 10:30 to 10:45

VI. EVIDENCE BASED COMMUNITY CUSTODY COMMITTEE UPDATE and SENTENCE REDUCTION DISCUSSION

Hon. Kathleen O'Connor gave an overview of what the committee put in the report last year, along with new developments based on the work of the Bail Task Force and WSIPP. The courts have asked for money to fund an automated risk assessment tool with the goal of having something in place by the end of 2011.

There was discussion of how WA could capture additional savings to reinvest in evidence based programs under the WSIPP cost-benefit model. Secretary Vail noted that it is harder to find savings in WA corrections because our system was already leaner and more rational than most of the nation. He noted that if WA incarceration rates tracked the national rate, we would have 25,000 people incarcerated rather than our current 18,000. He suggested we wait to see what exists at the end of the session. Seth Fine noted that the WSIPP model takes a long-term view of savings. Dave Boerner noted that politically it makes sense to save money and reinvest in programs to reduce crime, pointing out that 20% reinvestment was the break-even point and at 30% reinvestment we could anticipate a reduction in crime. Secretary Vail informed the members that DOC is working on a study of what happened as a result of 5280. Dave suggested that it would be interesting to look at the possibility of replacing the offender score with a risk assessment score and Lenell asked if this wasn't what the offender score was originally designed to do. There was additional conversation about the current and proposed risk assessments and the associated logistics.

Members discussed the current relevancy of the policy functions of the SGC and what to do in the 2011 legislative session. Secretary Vail noted that there was the continual issue of reducing the state corrections budget while not increasing the costs to local jurisdictions. There was some discussion as to whether the SGC should contemplate sentence reductions before we were formally requested to consider this option for budget cuts. There was discussion about problems with cuts to community custody and how WSIPP analysis indicates that in relation to other states, we have done a good job or reserving incarceration for those with violent offenses or long criminal histories.

Members decided that it would be appropriate to submit a brief proposal to the legislature outlining the mission and history of the SGC and noting the work on budget reduction scenarios. This would include an endorsement for the WSIPP reinvestment model, a discussion of how WA is at the front end of smart corrections investment, a reference to the JRA system as a model for adult corrections reform, and a plug to keep evidence-based programs for adult and juveniles.

VII. SENTENCING GUIDELINES –DISCUSSION

There was consideration of a proposal to make the guidelines advisory only in the 0-12 range. Judge O'Connor commented that she was seeing more pleas to unranked offenses for credit for time served. Judge Meyer commented that sentencing that affected local jurisdictions' budgets should be dictated by local decision-making. There was additional

discussion about the practices in local jurisdictions, concern that this proposal would produce disparity, and discussion as to whether there was already disparity in the way that pleas were being crafted in different jurisdictions.

VIII. ADJOURNMENT

The Chairman adjourned the meeting at 12:05 p.m.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

Dave Boerner, Chair

Date

Sandy Mullins, Executive Director

Date