Members Present:
Dave Boerner
Mark Larson (proxy for Dan Satterberg)
Hon. Monica Benton
Hon. Ellen Fair
Lynne DeLano
John Lane
Kim Gordon (proxy for Lenell Nussbaum)
Russ Hauge
Sheriff Paul Pastor
Bonnie Glenn (proxy for John Clayton)
Bernie Warner
Senator Adam Kline
Bonnie Bush
Rep. Brad Klippert
Mark Richard
Hon. Maryann Moreno
Bob Vos (proxy for Senator Pam Roach)

Members Absent:
Rep. Sherry Appleton
Timothy Killian
Mary Ellen Stone
Hon. John Meyer
Michael Kawamura

Guests:
Jennifer Rancourt, James McDevitt and AAG Jean Meyn from the Clemency and Pardons Board

Staff:
Keri-Anne Jetzer
I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order at 9:10am

II. ROLL CALL
Chair Boerner asked everyone to introduce themselves.

III. PUBLIC SAFETY & EMERGENCY PREPAREDNESS COMMITTEE REQUEST

a. ‘Second Look’ Request/Overview of Issues – Dave Boerner
Chair Boerner briefed the Commission on the request from Representative Hurst of the House Public Safety and Emergency Preparedness committee. It requests the Commission to review House Bill 2521 and, more broadly, a possible second look at long-term prisoners in Washington.

b. Long-term Prisons in Washington - Department of Corrections data
Before reviewing the data provided by the Department of Corrections, Chair Boerner provided a history of sentencing in Washington State.

The estimated number of offenders who have been incarcerated for more than 15 years is around 700. David Daniels, from the Department of Corrections, described the tables of data provided for offenders who have been incarcerated for long periods of time, as well as 2- and 3-strike offenders. He also cautioned that the data was broken down into categories that are not mutually exclusive.

Chair Boerner asked the Commission what other combinations of the data they would like to see. Suggestions included:

- By DOC’s seriously mentally ill designation
- For offenders convicted under age 18, provide their current age
- Race, ethnicity and gender
- County of origin for different sentences
- Age at conviction

Chair Boerner pointed out that the data will help define the question of who is eligible if there is going to be a second look and that as the Commission moves along in its work, the process of gathering information does not end. He added that it is difficult to design a system unless you know who it is going to apply to so determining who we are talking about and what are their characteristics are pressing questions. DOC Secretary Bernie Warner inquired whether the originator of the bill could provide some insight as to how he identified the population of HB 2521.
Doug Sayan, the bills originator, explained that he focused on long-term prisoners who were not creating problems, were at a minimum security level and had another 10 to 15 years of incarceration left. He said the Mason County Reentry Coalition, of which he is a member, questioned why offenders who were not harmful to anyone in the prison and would likely not be harmful to anyone when they come out were being kept in prison. They came to the conclusion that the SRA was not doing the job. If the ISRB was to be the safety valve for these long term offenders, it wasn’t doing the job either.

Secretary Warner asked if their decision was based on risk to public safety or proportionality that the offender had done more time. Mr. Sayan replied that research has shown that a person is not the same at age 19 as they are when they reach age 50 or 60, plus any treatment or programming the offender had received during incarceration.

Representative Klippert added that another issue to consider was the public perception of an offender who was sentenced to 36 months but was released after serving 24 months. Would the public still feel safe?

Concerns were raised about the selection of members for the citizen’s board as provided in the bill.

Mr. Hauge added that any discussion should start out with the recognition that 1) Washington State is toward the bottom of the list for rates of incarceration and that 2) the determinate sentencing model was created to address the issues of racial disproportionality in sentencing. He posed that any move away from a determinate sentencing structure toward more discretion is going to lead to more racial disproportionality in outcomes.

c. **Indeterminate Sentence Review Board presentation – Lynne DeLano**

Lynne DeLano gave a Powerpoint presentation on the ISRB that included a review of the process by which the Board reviews offenders, the criteria they review and data on their current offender population. She shared that the ISRB has about 300 pre-SRA (determinate) cases currently incarcerated, that 144 hearings were held in FY 2011 for this group of offenders and that only 26% were found parolable. For the determinate-plus sex offenders, they have 1773 currently incarcerated and gain approximately 20 per month. They held 273 hearings for determinate-plus sex offenders and 44.3% were found releasable.

d. **Clemency and Pardons Board presentation – Jennifer Rancourt/James McDevitt**

Jennifer Rancourt provided background information on the Clemency and Pardons Board, how petitions come to them and the review process. James McDevitt presented what criteria the Board considers when they look at petitions.

Chair Boerner briefed members on the articles in their binders from the American Law Institute (ALI). He explained that Kevin Reitz is one of the world’s leading experts on sentencing and corrections. At the ALI, Mr. Reitz has brought together a body of advisors who meet a few times per year and make a series of recommendations. Their recommendations on second look are the most comprehensive single source found. Chair Boerner said he is not suggesting that the recommendations of the ALI be the recommendations of the Commission, but instead believes that their work would be useful to the Commission as it works through the issues.

He referred to decision trees used by past Commission Director Roxanne Lieb to guide people through an outline of issues. He thought those might be helpful and said he and Keri-Anne would try to come up with some of those to guide the members through the process.

Some of the issues raised by the ALI article include:

- Who should be eligible?
- Who makes the decision?
- What are the criteria that should be the basis for the decision?
- Should the decision be final or should there be a review process? If there is a review process, who does it?
- Would there be a renewal of applications?
- Would offenders be released with conditions, i.e. supervision, monitoring, etc?
- Mechanical issues:
  - Will everyone who applies or is eligible be reviewed?
  - Should there be a gatekeeper position?
  - Should there be a public hearing?
- If the state does this, these would be the issues. Does the state want to do this at all?

f. Discussion

Chair Boerner asked the Commission members for thoughts on how to move forward with the review. Judge Moreno posed the question whether the discussion should be at the end or should the discussion be about the front end, i.e. the length of sentences imposed. Mark Larson suggested that two important considerations would be 1) how to group and sort offenders under similar sentences and 2) what sort of programming would be accessible and meaningful.
g. **Work Plan Formulation**
Chair Boerner suggested having someone from the WSIPP to present to the Commission on risk assessments.

He suggested at least another in-person meeting for June and possibly July to continue the discussion.

IV. **NEW BUSINESS**
Secretary Warner mentioned to the Commission that the Department of Corrections (DOC) was finalizing a proposal to the Bureau of Justice Assistance Second Chance Act grant that would help provide technical assistant to the state. The DOC is looking for support from stakeholders and endorsement from the Commission would be very helpful.

**MOTION #12-5: SUPPORT THE DEPARTMENT OF CORRECTIONS’ APPLICATION TO THE BUREAU OF JUSTICE ASSISTANCE SECOND CHANCE ACT GRANT.**
Moved: Senator Kline
Seconded: Judge Benton
Passed: Unanimous

V. **ADJOURNMENT**
Chair Boerner adjourned the meeting at 12:03pm

Next full Commission meeting will be on June 8, 2012.

**APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION**

/ s /

_________________________________  ________________________
Dave Boerner, Chair                  Date