AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
    The Commission is asked to approve the minutes from December 2013

III. CURRENT LEGISLATION - See spreadsheet

IV. OTHER BUSINESS

V. ADJOURNMENT
SGC Meeting Minutes 02/14/14  1

Members Present:
Dave Boerner
Bernie Warner
Bonnie Glenn (proxy for John Clayton)
Hon. Janice Ellis
Sheriff Paul Pastor
Kathleen Kyle
Hon. Maryann Moreno
Lenell Nussbaum
Patrick Escamilla
Rep. Mary Helen Roberts
Tim Wettack

Members Absent:
Senator Pam Roach
Senator Adam Kline
Rep. Brad Kliippert
Hon. Stanley Rumbaugh
John Lane
Dan Satterberg
Hon. Catherine Shaffer
Lynne DeLano
Russ Hauge

Staff:
Keri-Anne Jetzer

I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order.

II. APPROVAL OF MINUTES
MOTION #14-1: MOTION TO APPROVE DECEMBER 2013 MEETING MINUTES
MOVED: Judge Ellis
SECONDED: Judge Moreno
PASSED: Unanimously
III. CURRENT LEGISLATION - See spreadsheet

**ESHB 2164**

MOTION #14-2: MOTION TO SUPPORT ESHB 2164
MOVED: Tim Wettack
SECONDED: Patrick Escamilla
PASSED: Support 8; Oppose 0; Abstain 2

**2SSB 5064**
During discussion, Mr. Wettack inquired whether juveniles sentenced to LWOP under this bill would be ineligible for the review after 25 years. Ms. Nussbaum confirmed that they would be ineligible. Representative Roberts added that part of this bill may put some offenders who are released by the ISRB would be under lifetime supervision. She said conversations are about to begin to see how that might be modified.

MOTION #14-3: MOTION TO SUPPORT 2SSB 5064
MOVED: Tim Wettack
SECONDED: Judge Moreno
PASSED: Support 5; Oppose 1; Abstain 4

**SHB 2722**
Representative Roberts briefed the members on the bill. Judge Moreno asked why it applied only to 16 and 17 year olds. Representative Roberts replied that statute mandates arrest for 16 and 17 years olds.

MOTION #14-4: MOTION TO SUPPORT SHB 2722
MOVED: Tim Wettack
SECONDED: Judge Ellis
PASSED: Support 8; Oppose 0; Abstain 2

**2SHB 2627**
Representative Roberts briefed the members on the bill. A motion was made to support 2SHB 2627 but there was no second so the motion died.

**SSB 6192**
Lenell Nussbaum asked the fiscal impact on the bill. Clela Steelhammer, from DOC, indicated the impact was indeterminate but expected to be greater than $50,000. Based on the sample DOC took, they estimated a caseload impact 275 new offenders at a cost of about $750,000 fully phased in. Seth Fine noted that studies have found that supervision solely for the purpose of surveillance is not cost-effective and does not reduce recidivism.
SSB 6390
Chair Boerner reported that the issue surrounding this bill is related to the composition of the task force. Keri-Anne Jetzer informed the members that the revised bill removed most of the treatment providers originally included and adds a member of the SGC to the task force. Judge Ellis questioned why the Commission had not been asked to do the review. Chair Boerner explained that the Commission has reviewed this issue in the past. The prosecutors were opposed to the recommended changes but the rest of the Commission was in support of them, thus the legislature did not take action as sometimes happens when there is no consensus. The prosecutors might have expected to get the same result if the Commission did the review again and were seeking a broader group.

MOTION #14-5: MOTION TO SUPPORT SSB 6390
MOVED: Tim Wettack
SECONDED: Lenell Nussbaum
PASSED: Support 8; Oppose 0; Abstain 2

Racial and Ethnic Impact Statements (SB 6257)
Chair Boerner briefed the members on the status of the racial and ethnic impact statements. A bill was introduced in the House to have the Caseload Forecast Council produce an annual Disproportionality report. He testified in general support of that at the House committee public hearing. The bill did not make it out of the House. Chair Boerner has had further discussions with the Governor’s Office and there may be interest in the Commission continuing work on that in the interim.

SB 6009
The members discussed the use of an aggravating factor when the offender score is 9 or more. Seth Fine provided clarification on the statutes around that. Some members indicated opposition to language that contains mandatory language and takes away judicial discretion.

MOTION #14-6: MOTION TO OPPOSE SB 6009
MOVED: Lenell Nussbaum
SECONDED: Tim Wettack
PASSED: Support 6; Oppose 1; Abstain 3
**SB 6025**
Members discussed the need for a body armor enhancement. There was discussion about considering this as an aggravating factor instead of taking discretion away from the judges.

**MOTION #14-7:  MOTION TO OPPOSE SB 6025**
MOVED: Lenell Nussbaum
SECONDED: Judge Moreno
PASSED: Support 7; Oppose 0; Abstain 3

**IV. OTHER BUSINESS**
Chair Boerner informed the members that the Governor’s Office thinks a DUI statute review may be a topic for the Commission to look at during the interim. Chair Boerner has indicated that the Commission would be interested in doing that but wanted to get feedback from the members. Chair Boerner said that if the Commission does get the request, he will contemplate putting together a packet before the March SGC meeting. Lenell Nussbaum thought it would be good to bring in someone from the treatment community.

**V. ADJOURNMENT**

Next full Commission meeting will be on March 14, 2014, at the Criminal Justice Training Commission.

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

/ s /

dave boerner, chair          date
AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
    The Commission is asked to approve the minutes from February 2014

III. LEGISLATION UPDATE
    a. Bill update
    b. Juvenile justice task force

IV. DUI REVIEW

V. OTHER BUSINESS

VI. ADJOURNMENT
I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order.

II. APPROVAL OF MINUTES

MOTION #14-8: MOTION TO APPROVE FEBRUARY 2014 MEETING MINUTES

MOVED: Judge Moreno
SECONDED: Lynne DeLano
PASSED: Unanimously
III. LEGISLATION UPDATE
   a. Bill update
   Keri-Anne briefed members of the status of bills the Commission had voted on during this session.

   b. Juvenile justice task force
   Chair Boerner informed the members that the SGC has a position on the juvenile justice task force that was created with the passage of 2SSB 5064. He will seek background information related to the addition of an SGC position on the task force before suggesting a representative.

   Members indicated an interest in receiving updates by the SGC representative. Keri-Anne will add it to future agendas.

IV. DUI REVIEW
Chair Boerner informed the members that he was told the Governor’s Office would be submitting a request to the Commission to review the driving while impaired issue, not so much the whole issue but how to fund various proposals. Chair Boerner was impressed with the comprehensive report completed by last year’s impaired driving task force. As he understands it, there is substantial support for moving the line between misdemeanors to felonies, from four prior offenses to three. But that proposed legislation had a significant fiscal impact from additional incarceration and also from additional community supervision. One suggestion was to change other sentences and other crimes and apply those savings to fund a DUI change.

Judge Shaffer mentioned the success of the Drug Offender Sentencing Alternative (DOSA) and suggested a parallel to DOSA for the third time DUI offender as a cost-effective use of resources.

Lenell Nussbaum commented that she spoke to a DUI practitioner and was told that an unintended consequence of expanding the look-back period is that, when looking in the local jurisdictions, some of the offenses have been reduced in order to avoid the most draconian situations. When there are too many mandatory situations, the system responds differently than expected such as shifting the costs between the local and state government and that motivates the actors in the system.

Chair Boerner thought it was safe to assume that the request letter from the Governor’s Office would come so he suggested they move in that direction. Instead of creating a sub-committee, the members agreed that the entire Commission would work on the issue. Chair Boerner asked Keri-Anne if she had heard about staff support. Keri-Anne replied that she had not but as regards data requests they would need to be sent to the Caseload Forecast.
Council as she doesn’t have that data any longer. She added that Dave Elliot from the Administrative Office of the Courts may be able to assist with data as well.

In discussions related to where money could be saved, Representative Roberts commented that they included the mention of excessively long sentences, such as the stacking of mandatory enhancements. Ian Goodhew mentioned that a bill was introduced this session that would make the first enhancement mandatory but whether subsequent enhancements would be consecutive or concurrent to the first would be at the discretion of the sentencing judge. He was unsure where it ended up.

Dave Elliot provided an overview of therapeutic courts (DUI, mental health, veterans courts, etc.) that exist under AOC. He said it was different than a deferred prosecution as the offender admits to the crime and if they fail out of the court, they go to jail. One of the concerns with these courts is that the treatment is funded by the offender. Members further discussed the use and merit of therapeutic courts.

There was a question on whether Medicaid covers treatment costs. Some members thought that treatment would be covered under the Affordable Care Act, however the reimbursement rates may be lower than others. A member questioned if part of the marijuana tax was supposed to be directed toward treatment.

Ed Vukich talked about the data related to counting prior DUI offenses and how quickly the bed impacts can increase. Bernie Warner added that prison population is based on the number of offenders coming into prison and the length of their sentence. Chair Boerner also added that sentence lengths are based on both the crime of conviction and the offender score. He explained that, according to the scoring rules for felony DUI, the prior DUIs are counted as ‘priors’ in the offender score. He thought that could be argued as double-counting; the three priors were counted to get to the felony status and then are counted again to lengthen the sentence. If only felony priors were counted, the sentence lengths would be shorter. He questioned what the primary driver of the language is, to drive longer sentences/incapacitation or to force people into treatment?

Chair Boerner asked the members if they wanted to meet in person for this project. Members agreed that discussions over the telephone were not conducive for this project and monthly in-person meetings would be needed.

Because the CJTC does not offer the ability for members to conference call into the meetings, Keri-Anne was asked to gather proposals from nearby hotels on the costs of renting a conference room. Other suggestions for meeting rooms included the RJC, City of SeaTac, and new transit facility.
Dave Elliot offered to check into the AOC room. Judge Shaffer offered to ask the Frye parking garage if they offered parking specials.

Chair Boerner indicated the April meeting will mainly be an informational meeting with subject matter experts to provide a baseline.

V. OTHER BUSINESS
Judge Shaffer asked about the outcome of the racial and ethnic impact statement that the Commission approved before the legislative session started. Chair Boerner informed members that Senator Darneille introduced a bill requiring the Caseload Forecast Council to produce an annual disproportionality report at which he testified in support of on behalf of the Commission. The bill did not pass.

Judge Shaffer would like to continue discussions and updates on the racial and ethnic impact statements. Keri-Anne will add it to future agendas.

Bernie Warner explained the federal Justice Reinvestment Initiative that Washington is vying for consideration. The areas that would be reviewed are sentencing and corrections. He believed there may be a role for the Commission in the review due to its expertise in sentencing matters.

VI. ADJOURNMENT

Next full Commission meeting will be on April 11, 2014, at the Criminal Justice Training Commission.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

_________________________________  ______________________
Dave Boerner, Chair     Date
AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
   The Commission is asked to approve the minutes from March 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE

V. DUI REVIEW

VI. OTHER BUSINESS
   a. Alternative meeting locations

VII. ADJOURNMENT
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 IID's 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

/ s /

Dave Boerner, Chair

Date

SGC Meeting Minutes 04/11/14

Keri-Anne Jetzer

4/16/14
STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT
Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

SENTENCING GUIDELINES COMMISSION
May 9, 2014  9am – noon
Criminal Justice Training Commission
19010 1st Avenue South   Room C-206
Burien, WA  98148

AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
   The Commission is asked to approve the minutes from April 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE
   a. Meeting scheduled for May 27th
   b. SGC representative

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
    Ed Vukich will provide an example of what a racial impact statement may look like on a fiscal note.

V. DUI REVIEW
   a. What has been done, what is currently being done, what works – Shelly Baldwin, WA Traffic Safety Commission
   b. Deferred prosecution
   c. Define population of interest – Ed Vukich, Caseload Forecast Council and Clela Steelhammer, Dept of Corrections

VI. JUSTICE REINVESTMENT INITIATIVE
    Sandy Mullins will update members on the initiative. Marshall Clement from the Council of State Government will also speak about the initiative.

VII. OTHER BUSINESS

VIII. ADJOURNMENT
I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order and asked for introductions.
II. APPROVAL OF MINUTES

MOTION #14-10: MOTION TO APPROVE APRIL 2014 MEETING MINUTES

MOVED: Judge Shaffer
SECONDED: Bonnie Glenn
PASSED: Unanimously

III. JUVENILE JUSTICE TASK FORCE UPDATE

Chair Boerner announced that the first meeting for the task force will be May 27th and that Judge Ellis will be SGC’s representative.

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE

Ed Vukich and Keri-Anne thought it would be helpful for members to view an example of what a racial and ethnic impact statement might look like. Ed walked members through the statement.

Judge Shaffer suggested adding population numbers to the data. Ed indicated that OFM is working on a new methodology for population estimates, which won’t be available until late summer. One issue is that the age categories now include a wider age range (15-54) instead of the normal at-risk population age range used (18-54). He added that others issues include multiple races and that his data contains a category for Other/Unknown while the OFM population data does not have such a category.

Ed noted that there is a calculation error in the programming as some of the totals don’t match. He and John Steiger don’t know where the error is coming from but will look into it. Ed informed members that these statements can be done but completing a racial and ethnic impact statement for every fiscal note would not be feasible. Including the 6 racial categories breakouts into the bed impacts requires the creation of 24 files and equals about half a day’s work.

There was discussion about the disproportionality table that John Steiger presented to the Commission last year that showed disproportionality by crime type. Ed suggested that such a table could be added to the Caseload Forecast Council’s website.

Russ Hauge felt it was important to note that reducing disproportionality is more than simply not charging minority offenders in order to obtain the goal. Commission members agreed.

Representative Roberts added that disproportionality is measured by counting bed population but also by the length of sentence issued. Chair Boerner said the Minnesota study found that the primary driver of disproportionality was criminal history.
MOTION #14-11: MOTION TO REQUEST THE CASELOAD FORECAST COUNCIL TO POST THE DISPROPORTIONALITY DATA TABLE ON THEIR WEBSITE AND TO PROVIDE REI STATEMENTS FOR THE LEGISLATIVE BILLS REVIEWED BY THE SENTENCING GUIDELINES COMMISSION NEXT LEGISLATIVE SESSION

MOVED: Judge Shaffer
SECONDED: Judge Rumbaugh
PASSED: Unanimously

V. DUI REVIEW

Shelly Baldwin of the WA Traffic Safety Commission presented information on Washington’s status with DUI, what is currently being done and what some recommended practices are.

Clela Steelhammer from the Dept of Corrections presented data on the distribution of risk for felony DUI offenders in prison and on community supervision. She noted that prior to SB 5912, DUI offenders would not have been supervised by DOC if they were LOW or MOD risk so it is expected to see some increase in that population.

Ed Vukich presented information on the number of prior DUI and Actual Physical Control convictions and their average estimated lengths of stay as well as the data on felony DUI sentences.

Ken Stark noted that, for DUI offenders who have an alcohol/drug addiction, the only way to keep them from driving under the influence is for the offenders to get a handle on their addiction. He feels there needs to be a way to get them assessed and into treatment. He added that while treatment doesn’t work for 100% of people, it does work for the majority if they get the right treatment. The data speaks for itself; treatment will pay for itself. Ken believes the key is taking advantage of the Affordable Care Act and the expansion in Medicaid.

Russ Hauge mentioned that, in his experience, there are a lot of repeat DUI offenders that have multiple Negligent Driving convictions in a variety of municipal courts where resources and expertise are not available for offenders to be prosecuted for DUI and be made to follow up on the basic requirements of the statute now. He strongly suggests looking at the system as it currently exists and do what can be done to make it work and make it uniform.

Sandy Mullins informed members that the indigent ignition interlock device fund has been re-allocated. She expects DOL will announce at soon that they will be reducing reimbursement from 100% down to 16% for eligible
defendants. She mentioned this because she wasn’t sure if it would have an impact on this review.

Dave summed up that he saw two categories evolving: 1) how do we make treatment more available and more effective and 2) use of incapacitation other than prison sentences in order to keep people who are going through treatment off the streets. He asked that members think about these ideas for the next meeting.

Ken Stark stated that there is a good, comprehensive database to look up public chemical dependency treatment called TARGET. He thought there was no reason why the people who have been charged with prior DUIs couldn’t be run through the TARGET database to learn who has been through treatment and how many times. He added that it is only for public treatment and would not show for anyone who had private treatment.

VI. JUSTICE REINVESTMENT INITIATIVE
Sandy Mullins informed members that Washington State received approval for the Justice Reinvestment Initiative grant. She said the primary driver for behind the grant is the need to reduce prison beds, but there will also be a broader discussion on what else can we do in public safety and how else can we invest in evidence-based programs. The Council for State Governments will be analyzing the data and the goal is to have legislation in 2015 around identified policy options.

There was discussion on various areas under public safety members thought could be reviewed.

VII. OTHER BUSINESS

VIII. ADJOURNMENT

Next full Commission meeting will be on June 13, 2014, at the Washington Association of Sheriffs and Police Chiefs’ Headquarters in Lacey.

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

_________________________________  ________________________
Dave Boerner, Chair     Date
AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
   The Commission is asked to approve the minutes from May 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE
   a. Update from May 27, 2014 meeting
   b. Next meeting: July 15, 2014

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
   a. Update of disproportionality table – Ed Vukich

V. DUI REVIEW
   b. Funding proposals

VI. OTHER BUSINESS

VII. ADJOURNMENT
I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order and asked for introductions.
II. APPROVAL OF MINUTES

MOTION #14-12: MOTION TO APPROVE MAY 2014 MEETING MINUTES

MOVED: Judge Rumbaugh
SECONDED: Russ Hauge
PASSED: Unanimously

III. JUVENILE JUSTICE TASK FORCE UPDATE
Keri-Anne, who presented at the task force meeting, informed members that the May meeting consisted of presentations on related data and information. Chair Boerner asked Shani Bauer for any additional comments. She said the next meeting would be looking at the decline process and automatic transfers.

Russ Hauge mentioned that the “Miller fix” passed by the Legislature earlier this year is being challenged in court. The challenge holds that the resentencing cannot go forward under the theory of ex post facto.

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
a. Update of disproportionality table – Ed Vukich
Ed Vukich briefed the members on how to read the tables and on what the data means. These are the data that will be posted on the Caseload Forecast Council’s website.

Judge Shaffer noted that it is generally the law enforcement officer input on the racial category of an offender that everyone tends to rely on. She suggested getting word out to police departments that officers need to be careful when they fill out the booking form or SIR. Russ Hauge noted that in his perspective race is generally not a question that is asked of the offender by law enforcement and that the box will be filled out based on the officer’s observation. The reason is because if the officer is responding to something that is going to turn into a police report for a crime, inquiring of the offender their racial category could exacerbate an already tense the situation. He reported that he sees many reports where the box is blank.

Judge Shaffer added that after the arrest, when officers are booking the offender, many questions are asked, such as what is your name, what is your address, how old are you, etc. She thought that could be an opportune time to ask the offender to what racial category they identify. She also thought it would be helpful to educate AOC, the superior, district and municipal courts on how important it is to have Judgment and Sentence forms be accurate about how a person self-identifies their race. She acknowledged it won’t result in perfect data but it could make it better.
It was also suggested that the addition of a ‘Mixed Race’ category would be a good idea. Ed Vukich mentioned such an addition would require a change to the Judgment and Sentence form. Chair Boerner inquired whether there are many Judgment and Sentence forms that have multiple races listed. Ed offered to pull a sample of records with a race category of Unknown and see how many have multiple races listed.

Chair Boerner reminded members of the Minnesota study that found once crime is adjusted, race becomes fairly neutral with the exception of criminal history. He added that he has spoken to Steve Aos of the Washington State Institute for Public Policy to see if the study could be replicated in Washington. Steve indicated it could with existing data and with moderate costs. Chair Boerner wondered if the members would be supportive of the Commission recommending to the governor and the legislature that the WSIPP complete the study. Members were supportive of pursuing the recommendation so Chair Boerner said he will draft a proposal.

V. DUI REVIEW
Chair Boerner reviewed what has been discussed by the members at past meetings. He said he wasn’t aware of any specific ideas any of the members wanted to move forward on however. Judge Shaffer said she would like to have a DOSA option for DUI offenders. Chair Boerner noted that a DOSA option wouldn’t satisfy those who want to put DUI offenders in prison.

Chair Boerner repeated a comment made earlier by Russ Hauge that when an offender gets to this level, they have been through all kinds of treatment, deferred prosecutions, local probations, served a year in jail, and none of it has worked.

Keri-Anne informed the members that DSHS-RDA will provide brief analysis on the treatment histories of offenders who have 4 or more DUI penalties in their lifetime history, per interest exhibited at the previous SGC meeting.

Judge Shaffer added that the numbers of DUI offenders that get to this level are small but they do a lot of damage. She suggested proposing a DOSA-like alternative for those who are eligible and much longer prison terms for offenders who are not.

Tim Wettack commented that research shows that random checkpoints are very effective and wonders why hasn’t someone tried to change the law to make them legal. Judge Shaffer reminded members that making random checkpoints legal would require a change to the state constitution.

Russ Hauge suggested that because the histories of DUI offenders differ, it would be helpful to identify the population who have exhausted all remedies
and would be expected to continue to drink and drive, like a DUI 1st degree and DUI 2nd degree. He noted that DUI is one of the few offenses where deterrence works.

Representative Roberts suggested that if the incarceration route is taken then creative methods are needed and members should approach this with the assumption that no new prison will be built.

Judge Shaffer suggested taking an offender’s blood/alcohol count into account as well since long-time drinkers tend to have higher tolerance levels.

Because attendance during July and August is usually sparse, Chair Boerner decided to cancel the meetings in July and August. He asked for volunteers for a workgroup that would to continue working on this over the summer. The roll of the workgroup is to come up with a proposal based on the ideas discussed and report back to the SGC in September.

Judge Shaffer Barb Dennis Bernie Warner
Tim Wettack Clela Steelhammer Ed Vukich
Cindy Arends Elsberry

VI. OTHER BUSINESS
Chair Boerner briefed the members on the Justice Reinvestment Initiative (JRI). He is the Commission representative on the JRI task force and the first meeting will take place June 24, 2014. He has asked the Council for State Governments (CSG), the group analyzing the data, to present to the Commission at some point down the road.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Dave Boerner, Chair                      Date
AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
   The Commission is asked to approve the minutes from June 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE
   a. Update from September 11, 2014 meeting
   b. Next meeting: October 9, 2014

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
   a. Race Variables – Ed Vukich offered to pull a sample of records with a race category of Unknown and see how many have multiple races listed.

V. DUI REVIEW
   DUI workgroup to present proposals

VI. JUSTICE REINVESTMENT INITIATIVE
   Presentation by the Council for State Governments

VII. OTHER BUSINESS

VIII. ADJOURNMENT
Members Present:
Dave Boerner
Bernie Warner
Bonnie Glenn (proxy for John Clayton)
Hon. Maryann Moreno
Russ Hauge
Lynne DeLano
Hon. Stanley Rumbaugh
Tim Wettaack
Dan Satterberg
Hon. Catherine Shaffer
Hon. Janice Ellis
Kathleen Kyle
Senator Pam Roach
John Lane

Members Absent:
Senator Adam Kline
Sheriff Paul Pastor
Rep. Mary Helen Roberts
Rep. Brad Klippert
Patrick Escamilla

Staff:
Keri-Anne Jetzer

Presenters:
Carl Reynolds and Karen Chung, Council of State Government – Justice Center

Guests:
Clela Steelhammer, DOC; Ed Vukich, Caseload Forecast Council; Barbara Dennis, Kitsap County Prosecuting Attorney’s Office; Shani Bauer, Senate Committee Services; Sandy Mullins, Governor’s Policy Office; Ned Newlin, Kitsap County Sheriff’s Office; Kim Gordon, WACDL/WDA; Patricia Fulton WACDL/WDA.

I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order and asked for introductions.
II. APPROVAL OF MINUTES
The Commission did not approve the past meeting minutes.

III. JUVENILE JUSTICE TASK FORCE UPDATE
Keri-Anne Jetzer was asked to brief members on the Out-of-Home Placement History of Juvenile Offenders Sentenced as Adults brief. This brief was completed by DSHS-RDA and was presented by Jim Mayfield of RDA to the Juvenile Justice Task Force.

Judge Ellis was asked to provide a brief update on the direction the task force seems to be headed.

Dan Satterberg added that the task force members received a briefing on a specific case from Pierce County which turned into discussion about granting exceptional sentence authority to a sentencing judge when a multiple consecutive sentence or multiple weapon enhancements resulting in a sentence the court believes to be clearly excessive.

Russ Hauge stated that he has heard that the 20 year review created under the “Miller fix” bill last session does not apply to firearm enhancements. Clela informed members that DOC will be submitting a technical fix bill this upcoming legislative session which will address that issue.

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
Chair Boerner presented to members a draft proposal he wrote to request a study similar to a Minnesota disproportionality study, be completed by the Washington State Institute for Public Policy.

MOTION #14-13: MOTION TO HAVE SGC RECOMMEND A DISPROPORTIONALITY STUDY BE COMPLETED BY WSIPP

MOVED: Russ Hauge
SECONDED: Tim Wettack
PASSED: Unanimously

Kim Gordon suggested including the inter-generational effect of imprisonment to the study. Chair Boerner said he would talk to Steve Aos about the possibility of that.

At the June meeting, Ed Vukich offered to pull a sample of records with a race category of Unknown and see how many have multiple races listed. He reported that the CFC does match their records against SCOMIS, so if multiple races are checked, they go with what SCOMIS has. Sometimes “Other” is marked and something specific is filled in (Russian, for example).
Chair Boerner said the proposal for racial and ethnic impact statements from last year will be added to the next agenda for a re-vote. He added that the November meeting will be a joint meeting with the Minority & Justice Commission.

V. **DUI REVIEW**
Ed Vukich presented bed impact data to the members on two DUI proposals: DUI DOSA and a graduated 1\textsuperscript{st}, 2\textsuperscript{nd}, 3\textsuperscript{rd} degree DUI.

He stated that a DUI DOSA proposal would create a bed impact of 244 and the 1\textsuperscript{st}, 2\textsuperscript{nd}, and 3\textsuperscript{rd} degree DUI proposal would create a bed impact beyond 282 beds, largely because of the 2,000+ cases that would move from a gross misdemeanor to an unranked felony. If DUI DOSA was not considered for the unranked felonies, the bed impact would decrease to around 197.

Keri-Anne briefed the members on a brief that RDA completed on the treatment history of offenders who have 5 or less DUls.

VI. **JUSTICE REINVESTMENT INITIATIVE**
Carl Reynolds and Karen Chung presented to the members the Council of State Government – Justice Center’s analysis that was presented to the Justice Reinvestment Initiative task force.

Karen informed the members that the primary focus of the next presentation to the task force will be on the DOSA program and the impact of state policies on local governments. Chair Boerner added that they will be presenting to the Commission at the October meeting.

VII. **ADJOURNMENT**

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Dave Boerner, Chair

Date
SENTENCING GUIDELINES COMMISSION
October 10, 2014 9am – noon
Criminal Justice Training Commission
19010 1st Avenue South  Room C-214
Burien, WA  98148

AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
    The Commission is asked to approve the minutes from June and September 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE

V. DUI REVIEW

VI. PRISON POPULATION PROPOSALS

VII. OTHER BUSINESS

VIII. ADJOURNMENT

Next meeting will be a joint meeting with the Minority & Justice Commission. This meeting will take place at the Tukwila Community Center on Friday, November 14, 2014, from 9am – noon.
I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order.
II. APPROVAL OF MINUTES

MOTION #14-14: MOTION TO APPROVE MEETING MINUTES
MOVED: Judge Ellis
SECONDED: Russ Hauge
PASSED: Unanimously

III. JUVENILE JUSTICE TASK FORCE UPDATE
Keri-Anne informed members that the task force had not met since the last SGC meeting. Chair Boerner asked if anyone knew if the task force had any proposals yet. Representative Klippert, who is on the task force, said that nothing has been voted on yet, but they have asked others to bring their proposals to the next meeting for possible voting.

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
Chair Boerner said that the WSIPP is still working on cost figures for the racial disproportionality report. He said that when he has those, he will talk with Sandy Mullins to see if it can be incorporated into the budget.

He noted that the November meeting will be a joint meeting with the Minority & Justice Commission.

Ed Vukich presented racial category data from the CFC. He explained that the unknown category in past years is smaller due to data cleaning procedures. The five percent found in 2013 is typical of newer data and will also be reduced through data cleaning procedures. Bernie Warner asked if there is a decrease in percentages of African-Americans or is it just the re-alignment of the unknown category that causes the change? Ed replied that he did not know but would look into it. Members requested the state population totals for the racial categories too.

Bernie Warner asked if the racial categories could be broken down into prison and jail sentences. Ed said that he could break them out into prison and non-prison which would include sentencing alternatives. Representative Roberts asked if juveniles could be displayed as well.

V. DUI REVIEW
Chair Boerner asked members if there were any suggestions they felt comfortable moving forward with.

Sandy Mullins posed the question is there any impact on this group of offenders more than time in incarceration? Russ Hauge suggested possibly offering treatment to offenders within a 3-5 prior DUI range and incarcerating
those above that with the condition that they wear a bracelet or such upon releases. Rep Klippert said he has heard great stories from drug courts and knows that there is talk of DUI courts. He wondered if those have been successful with this population. Keri-Anne asked members if they would be interested in the 1st degree/2nd degree proposal she and Ed have been working on. They indicated they would, with the 1st degree for those with a history of at least 6 DUIs and open the look back period to life.

Tim Wettack suggested random sobriety check points be put on the table too because they data show them to be very effective. He added it would raise the issue in the public’s mind. Shelly Baldwin said that the best practice is to combine check points with saturation patrols. Check points are cost effective, don’t net a whole lot of DUIs so it doesn’t increase workloads and show a 25%-35% decrease in fatal collisions and the saturation patrols are very visible.

For the chronic offender, Shelly believes that DUI courts are the best bet. There are four in the state so far and have shown positive results. The eligibility criteria are set by those who build that court. Most DUI courts deal with offenders who have 3-4 prior DUIs. The courts already have the authority they need to require and mandate treatment within a DUI court.

Russ Hauge mentioned that the issue of checkpoints has not been confronted directly and questioned why not try it? Sandy Mullins said it could be helpful to have this group weigh in on the subject.

**MOTION #14-15: MOTION TO RECOMMEND THE LEGISLATURE SUPPORT SOBRIETY CHECK POINTS**

**MOVED:** Tim Wettack  
**SECONDED:** Russ Hauge  
**OPPOSED:** John Clayton, Kathleen Kyle  
**PASSED:** Approved

**VI. PRISON POPULATION PROPOSALS**

Chair Boerner presented some ideas he had that may help reduce prison populations and asked members for feedback.

Russ Hauge provided some information on what the Justice Reinvestment Initiative has been discussing, particularly the lack of use of community supervision along with incarceration for property offenders. He added that if incarceration is reduced, in order to reduce recidivism, the reduction needs to be coupled with supervision and programming.

Bernie Warner stated that there was a decision make to not supervise high risk property offenders. He added that an argument could be made that they are
the people turning in and out of the system so supervising them would give
the state more of an opportunity to break that cycle.

Bernie mentioned that the JRI was having another meeting in December and
suggested it would be helpful for the SGC members to look at sound rationale
on property crimes and provide feedback on elements that are being reviewed.

Chair Boerner gave a quick overview of offender scoring rules and its history.
He offered a few proposals related to certain scoring policies. Ed Vukich
noted that he would be able to provide bed impacts on ideas #2, #3 and #4.
He went on to say that #1 could not be calculated because they do not record
dates of sentences on prior offenses.

There was also discussion about adding a mitigating factor to offender
scoring.

Tim Wettack commended Chair Boerner for his work on the prison reduction
proposals. Tim agrees that some offenders have earned their way into prison
but he also feels that some have earned their way out of prison and reviewing
those cases may be a way to help reduce the prison population.

VII. OTHER BUSINESS
Ed Vukich asked the members for feedback on some sentencing anomalies the
Caseload Forecast Council has come upon.

VIII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Dave Boerner, Chair ......................................................... Date
AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
   The Commission is asked to approve the minutes from October 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE - Updated race/ethnicity tables from Ed Vukich, CFC

V. DUI REVIEW –List of proposals

VI. JUSTICE REINVESTMENT INITIATIVE

VII. ADJOURNMENT
Members Present:
Dave Boerner
Bernie Warner
John Clayton
Rep. Mary Helen Roberts
Hon. Stanley Rumbaugh
Dan Satterberg (Jon Tunheim proxy)
Russ Hauge
Patrick Escamilla
Hon. Maryann Moreno
Tim Wettack
Hon. Janice Ellis
Kimberly Gordon
Kathleen Kyle
Senator Pam Roach

Members Absent:
Senator Adam Kline
Sheriff Paul Pastor
Hon. Catherine Shaffer
John Lane
Jennifer Albright
Lynne DeLano
Rep. Brad Klippert

Staff:
Keri-Anne Jetzer

Guests:
Marshall Clement and Karen Chung, Council of State Governments; Anna Aylward, DOC; Ed Vukich, CFC; Sandy Mullins, Governor’s Policy Office; Shelly Baldwin, WTSC; Aldo Melchiori, Senate Law & Justice Committee; Tom McBride, WAPA; David Elliot, AOC.

The first part of the meeting was a joint meeting with the Minority & Justice Commission that took place from 8:45am – 11am.

The purpose of the joint meeting was to have a thoughtful discussion on advancing the idea of racial impact statements.
A presentation was given by Jen Lleras of the Western States Center in Oregon on racial impact statements.

Chair Boerner presented information on the SGC’s work on racial impact statements.

At 11am, each of the commissions broke out into their own meetings.

I. CALL TO ORDER
   Dave Boerner, Chair, called the meeting to order.

   Chair Boerner moved discussion to Item VI

II. APPROVAL OF MINUTES

III. JUVENILE JUSTICE TASK FORCE UPDATE

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE

V. DUI REVIEW

VI. JUSTICE REINVESTMENT INITIATIVE
   Marshall Clement and Karen Chung of the Council of State Governments presented a draft Justice Reinvestment policy framework to the members.

VII. OTHER BUSINESS

VIII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

/ s /

Dave Boerner, Chair

Date
AGENDA

I. CALL TO ORDER
   Dave Boerner, Chair

II. APPROVAL OF MINUTES
   The Commission is asked to approve the minutes from October and November 2014

III. JUVENILE JUSTICE TASK FORCE UPDATE – Final report

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE – Updated race/ethnicity tables from Ed Vukich, CFC

V. DUI REVIEW – List of proposals

VI. JUSTICE REINVESTMENT INITIATIVE

VII. OTHER BUSINESS

VIII. ADJOURNMENT
I. CALL TO ORDER
Dave Boerner, Chair, called the meeting to order and asked participants to introduce themselves.
II. APPROVAL OF MINUTES

MOTION #14-16: MOTION TO APPROVE MEETING MINUTES
FROM OCTOBER AND NOVEMBER 2014

MOVED: Bernie Warner
SECONDED: Patrick Escamilla
PASSED: Unanimously

III. JUVENILE JUSTICE TASK FORCE UPDATE
Judge Ellis provided members with an update on the proposals discussed and voted on by the task force.

There was some discussion on reviews of the juvenile justice system completed by the Commission in the past.

IV. RACIAL AND ETHNIC IMPACT STATEMENT UPDATE
Judge Shaffer informed members of the discussion that occurred during the meeting hosted by Senator Hasegawa regarding racial and ethnic impact statements. She reported that the Senator is planning to propose legislation very similar to what the Commission has proposed in the past on impact statements. Chair Boerner noted that the Commission is on record as supporting this proposal.

Sandy Mullins noted that the proposal to have WSIPP complete a disproportionality study similar to that in MN was endorsed by the Minority & Justice Commission and was well-received. She said now it is a matter of making everything line up to see if it will make it into the Governor’s budget.

Chair Boerner asked Ed Vukich to describe the enhanced data tables he provided based on member requests in a prior meeting.

V. DUI REVIEW
Chair Boerner reported that he had presented some of the proposals discussed by the Commission to Representative Goodman’s advisory group on DUIs in November. He also reported the one recommendation by the SGC which is to support sobriety checkpoints.

VI. JUSTICE REINVESTMENT INITIATIVE
Karen Chung, from the Council for State Governments, presented the final Justice Reinvestment Initiative proposals as presented to the Task Force.
MOTION #14-17: MOTION TO SUPPORT THE CONCEPT OF THE RECOMMENDATIONS BY THE COUNCIL OF STATE GOVERNMENTS

MOVED: Judge Shaffer  
SECONDED: Judge Rumbaugh  
PASSED: Unanimously

VII. OTHER BUSINESS
Chair Boerner reminded members of the legislative subcommittee that meets via teleconference weekly during the legislative session. Two prior members of the subcommittee are no longer on the Commission so he will work on filling those positions.

Chair Boerner notified members that there will probably be proposed legislation dealing with second-look for long term offenders in prison. In the past the Commission has decided not to take a position on such legislation.

Sandy Mullins noted that this is Russ Hauge’s last meeting as a member of the Commission, although she doesn’t expect it to be his last Commission meeting. She wanted to extend a thank you for all the work he has done and looks forward to what he will do in whatever new endeavor he partakes.

VIII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION

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Dave Boerner, Chair                Date