

**Washington State Criminal Sentencing Task Force
Reentry & Reducing Recidivism Working Group
Meeting Summary: May 29, 2020
Zoom Digital Conferencing Technology**

Attendees:

- Chief James Schrimpscher
- Mac Pevey
- Chris Poulos
- Nick Allen
- Clela Steelhammer
- Jon Tunheim
- Lauren Davis (Guest)
- Sonja Hallum

Facilitation Team: Molly Stenovec, Amanda Murphy, Chris Page, and Hannah Kennedy

WELCOME & INTRODUCTIONS

Molly welcomed Reentry and Reducing Recidivism Working Group (working group or RWG) members and reviewed the agenda. Moving forward, the RWG will meet bi-weekly on Monday afternoons to provide stability, predictability, and transparency. Amanda and Chris addressed some confusion about what Working Groups are and are not: Working Groups allow Task Force members to dive deep to work through specific topic areas, especially now that the full Task Force only meets a half-day each month.

LEGAL FINANCIAL OBLIGATIONS – Nick Allen, Columbia Legal Services

Nick Allen resumed his presentation of potential recommendations related to legal financial obligations (LFOs) from the May Task Force meeting. The following list summarizes seven LFO-related potential recommendations Nick presented, as well as the comments, questions, and responses that followed.

1. **Relief options while people are incarcerated.** Currently, individuals can only request a waiver of non-restitution obligations upon release. This recommendation would expand who would be eligible to request such relief to individuals currently incarcerated. Relief requests would still be subject to the same criteria as those in the community (i.e., the court has discretion to determine whether individuals or family members are experiencing hardship).

Questions/Comments/Responses

- **Q:** How would this court process work for incarcerated people? Would the requests be processed ex parte, or would individuals be transported to a hearing? **R:** Most of these requests are addressed via paper. It is rare for these requests to be determined via a hearing; thus it is unlikely this recommendation would result in additional costs to courts.
- **C:** A working group member emphasized their support for this recommendation: relief from such financial burdens would have a strong positive psychological impact and support successful reentry.
- **C:** Another member echoed this support but suggested it would be helpful to hear from a county clerk to better understand how interest is calculated.

2. **Statute of limitations on collection of LFOs.** Prior to July 1, 2000 courts had the authority to collect interest for up to 10 years (after 10 years the court can file an extension). For offenses committed after July 1, 2000, the courts' collection jurisdiction goes on indefinitely. This recommendation would reinstate the 10-year maximum on a court's authority to collect, allowing for finality around convictions.

Questions/Comments/Responses

- Several members expressed support for everything discussed thus far, with some noting they would need to confirm formal support with their constituencies.

- **C:** This recommendation should depend on an individual's ability to pay; we don't want to create an incentive to "wait out" a time limit on responsibility.
 - **C:** Some of this overlaps with the third recommendation (to allow a person to go back to the court for relief if the restitution is not going to a victim, but an insurance company for example). A Senate Bill (Dhingra; 6220) addressing this died in committee.
 - **C:** We (prosecutors) have talked about qualifying types of restitution. I think prosecutors would likely support this, especially the idea of it going in front of the court.
 - **Q:** Would you be willing to extend this court appeal option to other types of restitution, beyond just insurance companies (for example state agencies, or other types of non-individual victims)? **R:** I think we would be open to it. **R:** I don't think there would be an objection to any opportunity to request relief for restitution to non-individuals (would be different if recommending these waivers be mandatory).
3. **Fine Adjustments:** Now, under statute if the court imposes costs, there is an option to seek relief of those costs, but we do not have anything like this for fines. The court can waive or suspend a fine at any time, but only if someone is brought before the court for failure to pay the fine; the court could then find them unable to pay and waive the fine at their discretion. This recommendation would allow individuals to preempt this by allowing individuals to petition the court to find them indigent.

Questions/Comments/Responses

- **Q:** At the county-level, fines are rarely imposed; so are we talking about District Courts? District Court judges already have a lot of discretion. **R:** The use of fines varies across court systems but is most common in courts with special jurisdiction. At the county level, it varies widely. This recommendation may also help clarify when and how fines can be used.
 - **C:** This recommendation would be more palatable to prosecutors with some type of condition precedent. Most of these cases are settled in plea agreements, so there is an expectation the person has considered their ability to pay a fine over time, but we understand this situation can change over time.
 - **C:** Another member voiced concerned about the capacity of the justice system to handle the number of reviews that could come with this recommendation. They recommended the working group and/or Task Force consider the logistics of this recommendation. **R:** Washington should not expect a landslide of fine waiver requests and may even see some cost savings via increased efficiency (e.g., reducing the number of accounts, cases, and clerks needed to monitor fines).
 - **Q:** Have other states done this; are there any lessons we can learn? **R:** Not sure, you really have 50 different approaches to LFOs, but we can definitely look into it.
4. **Transfer of LFOs to collection agencies.** The transfer of LFOs to collection agencies can create huge financial burdens, as the state can add a fee of up to 50% of the amount owed when an account gets turned over to collection agencies. These larger burdens become practically impossible to pay off. While most county clerks' offices work with individuals to build a payment plan, collection agencies don't. Nick suggested the RWG and full Task Force discuss whether and how collection agencies should be used, including potentially requiring the establishment of payment schedules, etc. The Task Force should also consider clarifying that some of the waiver requests discussed above apply to debt transferred to collection agencies.
- **Q:** What's the incentive to use collection agencies? **R:** For courts of limited jurisdiction, the transfer to collection agencies is mostly the result of capacity issues.
 - **Q:** How could this be done while not further limiting local capacity? **R:** Not sure, but maybe a state agency? **R:** Oregon's Department of Revenue might be a potential model.

NEXT STEPS & ACTION ITEMS

- Nick Allen will research Senate Bill 6220 and Oregon's LFO debt collection model.

- Jon Tunheim will review these emerging potential LFO-related recommendations with his constituents to gauge their support.
- Mac Pevey and Nick Allen, using their network of peers across other states, will work together to think about other potential models.
- The Facilitation Team will follow-up with legislative members of the Task Force about past bills to address LFO reform.
- Mac Pevey and Chris Poulos will work together to craft recommendations on vocational training, housing, and treatment. They will seek input from Representative Klippert.

ADJOURN

Washington State Criminal Sentencing Task Force
Reentry & Reducing Recidivism Working Group
Meeting Summary: June 15, 2020
Zoom Digital Conferencing Technology

Attendees:

- Mac Pevey
- Jon Tunheim
- Chief James Schrimpsker
- Chris Poulos
- Nick Allen
- Rep. Klippert
- Sonja Hallum
- Dianne Ashlock (Guest)
- Brittany Lovely (Guest)

Facilitation Team: Molly Stenovc, Amanda Murphy, Chris Page and Maggie Counihan

WELCOME & INTRODUCTIONS

Molly welcomed the Reentry and Reducing Recidivism Working Group members and guests and reviewed the agenda. Chris noted that the working groups may be looking at potential policy recommendations that individual entities would push forward regardless of whether the Task Force reached consensus. He asked the group to think about which recommendations need to be brought to the larger Task Force with the knowledge of the time constraints on members and the Task Force as a whole. Amanda asked the group to think about what recommendations they need to be united on to have the strength to move them forward.

Community Supervision: Mac Pevey, Dept. of Corrections

Mac Pevey presented potential recommendations for Community Supervision. Below is a list of the recommendations (not in a ranked order) and the comments, questions, and responses for each.

Potential recommendation: Supervision should be based on an individual’s Risk, Needs, and Responsivity (RNR) and research and evidence-based practices, and not solely on their conviction(s).

- Mac noted that the current Revised Code of Washington (RCW) specifies certain offenses as eligible for supervision by crime type or the sentencing alternative they receive.
- Gaps exist at the time of sentencing as to whether someone is going to get supervision.
- An RNR approach should inform who, how, and how long to supervise someone.
- Pre-sentence investigations give a lot of the needed information and there is a benefit to getting that information up-front.

Questions/Comments/Guidance:

C: The potential recommendation should not say “expanding range,” it should be based on an individual’s RNR assessment. There may need to be another recommendation around pre-sentence investigation (PSI). **R:**

Another member said they would support a recommendation for more PSIs.

C: This potential recommendation may need additional organizations to assist the Department of Corrections (DOC) with some elements of supervision.

Q: At what point in time is someone’s risk gauged to determine their needs? **R:** At a practitioner level supervision is looked at an alternative way to achieve accountability (prosecutors used to only have incarceration as an option). Supervision should be an option for all felonies, which would allow prosecutors more options besides incarceration. Prosecutors use RNR to figure out what is the intensity of the supervision.

C: A member mentioned they are not a fan of supervision in its current form, having heard from people in it who report not having much constriction on folks.

Q: What would you like to see supervision look like? **R:** The case management system needs to be developed.

C: Another member said they want to help incarcerated individuals prepare for life after incarceration by having them spend less time behind bars and making sure help is provided afterwards.

C: There are things we can improve upon regarding supervision. To support individuals in reentry, we can come up with new options.

C: Another member suggested focusing on county jails and people who leave there or cycle through, when discussing expanding the range of individuals under supervision. **R:** Thank you for bringing up the individuals in jail because I think they get forgotten sometimes.

C: A member said their concerns are with supervision overall and the disproportionate impacts of sanctions associated with supervision.

Potential recommendation: Early access to reentry services for all individuals being released from confinement associated with felony convictions. Services are currently prioritized based on release date. Some counties do not have a lot of resources and some fear having specific treatments available (e.g., sex offender treatment).

Questions/Comments/Guidance:

C: There are certain things need to be done upfront, such as addressing untreated substance abuse disorder. Sometimes people are only eligible for services for a certain period of time. We should start planning to provide early and continuous access to services along with a “reentry team” to provide support. These team members would not be new positions, but combinations of people doing planning, including community members.

Q: Does this require a shift of resources or new resources? **R:** I think both some new funding and shifting resources within the existing budget. Community members and/or providers can do some of the work that is currently being done by DOC staff or not being done at all.

C: It is important to find ways to overcome the limited resources that some counties (notably rural areas) have. Are there systems or processes that can be offered to cities and counties to help sustain?

Potential recommendation: Simplify tolling of supervision terms by limiting tolling to absconders.

Mac noted that tolling has created complexity for everyone involved: it is burdensome for the Department of Corrections (DOC) because it requires a lot of resources and staff time for record-keeping (there is no centralized record-keeping between DOC and county jails, and consistent language does not get used). Tolling seems like an add-on to some individuals. A recommendation could be to eliminate tolling completely.

Questions/Comments/Guidance:

C: A few members said they do not support eliminating tolling but are open to further conversation.

C: There are areas where we should toll, for example, absconding from supervision.

C: The group needs to make sure that our frame of reference is on changing supervision and connecting people to services. The group should look at things beyond absconders; perhaps it is based on a certain amount of conviction time. What instances are we going to toll?

Q: Is there a time when a period of confinement means individuals don’t receive reentry services? **R:** I think that’s the difference between jails and prisons. Jails have less resources to offer.

C: If the administrative burden is too high, it does not make a whole lot of sense to turn the toll on and off for a day or two in jail.

Next steps for tolling recommendation: Mac will outreach to other folks on this call to come up with a second offer for the working group.

Potential recommendation: Support a staffing model similar to programs like Graduated Reentry (GRE) that allows for a more intensive, responsive and individualized case management approach to facilitate successful transitions and reentry to the community

Mac noted that it helps individuals walk through the transition process. Typical DOC caseload is 35-40 cases, which GRE would reduce to about 20. GRE provides a focused approach, in which case managers can take individual to specific services.

Questions/Comments/Guidance:

Q: Is there a model that you have seen that would work better? **R:** It looks good on paper and in theory, but I see programs put into law that do not get the resources they need to succeed.

Q: What kind of metrics would you need to see? Or desired outcomes? **R:** If a policy is not created it does not matter. I would like to see DOC take this seriously. Implementation is critical.

Mac: You are right, we have not published a policy related to this. It is currently in draft form. We have implemented the program and we do care about it. I can check to see the timeline for the policy.

C: It seems we would need the supervision model we want first before the staffing model. **R:** Maybe it is more conceptual.

C: Prosecutors became cynical around supervision based on past caseloads. To be successful, we need to make sure the caseloads are manageable. I support making sure we are conscious of the case load.

C: Maybe the staffing recommendation and coaching model¹ recommendation need to be combined. **R:** A member suggested removing the staffing model recommendation because the coaching recommendation speaks to it. Members agreed to remove the staffing model recommendation.

Molly suggested moving the coaching recommendation to the top.

Potential recommendation: Tort reforms

Mac noted there are no limits to the number of claims that can be brought against the department. The money that gets paid out is taxpayer dollars. DOC often settles cases based on the circumstances of the case. He mentioned staff are worried about being sued.

Questions/Comments/Guidance:

Q: Would the group would want to work on this for next year? Instead of including it in the December 2020 report, perhaps doing some information gathering (joint fact-finding).

C: The group would benefit from more information. Presentations could help, maybe from the Attorney General's (AG's) office representative(s) that DOC uses.

C: This is a vital issue and presentations from AG's office would help get the entire Task Force more informed. It seems very tied to the success of potential legislation to change the supervision model.

The group agreed that more information is needed.

ADJOURN

¹ **POTENTIAL RECOMMENDATION:** Develop and implement a formal motivational & coaching focused supervision model, which includes trauma informed coaches and core correctional practices. This supervision model should consider staffing needs, program/service delivery, including how community corrections officers dress during routine home and work checks.

**Washington State Criminal Sentencing Task Force
Reentry & Reducing Recidivism Working Group
Meeting Summary: June 29, 2020
Zoom Digital Conferencing Technology**

Attendees:

- Mac Pevey
- Jon Tunheim
- Chief James Schrimpsker
- Sec. Steve Sinclair
- Martina Kartman
- Suzanne Cook
- Rep. Brad Klippert
- Rep. Roger Goodman
- Rep. Lauren Davis (Guest)
- Brittany Lovely (Guest)

Facilitation Team: Molly Stenovec, Amanda Murphy, Chris Page and Maggie Counihan – William D. Ruckelshaus Center

WELCOME & INTRODUCTIONS

Molly welcomed working group members and thanked them for their hard work. Amanda reviewed the agenda and asked members what they feel is most important for the full group to bring forward to the full Task Force—as opposed to the legislative priorities of individual member organizations.

Working group members reviewed potential recommendations about relief from legal financial obligations (LFOs) and community supervision that had outstanding questions/input from the full Task Force. Discussion summary below.

Potential Recommendations – Relief from Legal Financial Obligations

Potential Recommendation 2: Automatic Waiver of existing non-restitution interest.

- Task Force Input: does the constitutional prohibition of “gifting” money to the people apply?
 - Members asked legislative or judicial staff to do research on “gifting” to address this.

Potential Recommendation 6: Fine adjustment

- Task Force Input: most cases are settled in plea agreements, with the expectation the person has considered their ability to pay, but an individual’s circumstances can change.
 - There is currently no specific statute to ask for a waiver of fines; most are discretionary. There is a statute related to costs.
 - Members discussed changing the recommendation to acknowledge the creation of statutory authority to waive fines. All agreed.
 - Potential recommendation was changed to: “create statutory authority for courts to review and adjust or waive fines”.

Potential Recommendation 7: Transfer of LFOs to collection agencies

- Members discussed when and why LFOs are transferred to collection agencies. It varies widely, based on the type of court and what county it is in.
- A member asked if they could get information on each county’s practice to determine what needs to be addressed. Others agreed that more information would be helpful.
- Suggestion: make the recommendation more of a general principle instead of a specific mandate—members agreed, and changed the potential recommendation to: “consider developing and implementing guidance for local jurisdictions to follow governing the transfer of LFOs to collection agencies.”

Potential Recommendations – Community Supervision

Potential Recommendation 1: Develop and implement a formal motivational & coaching focused supervision model, which includes trauma informed care and core correctional practices and allows for a more responsive and individualized case management approach to facilitate successful transitions and reentry to the community. This supervision model should consider staffing needs, caseload, and program/service delivery, including how community corrections officers dress during routine home and work checks.

- Input from the Task Force: need additional information how motivational/coaching approach is guided by research and data.
- The facilitation team had combined two previous recommendations into one and members had no objections to the language.
 - This potential recommendation is central to the Task Force and could be more concrete.
 - Funding will be challenging because of the current economy.
 - **Q:** If custody time lessens, funds could be saved and put towards a coaching model? **R:** We have talked about this idea, commonly called justice reinvestment.
 - People who leave incarceration should have what they need to lead successful lives.
 - It could be difficult to ask community corrections officers to change to a coaching style.
 - Members discussed previous comments around separating enforcement and case management. Noted it could be a challenge to put it into operation.
 - A member noted the recommendation is focusing on non-violent offenders.
- For a potential recommendation on home and work supporting successful reentry, members suggested it fit better into a agency-implemented policy change instead of a legislative recommendation.

Potential Recommendation 4: Simplify tolling of supervision terms by limiting tolling to absconders.

- Task Force Input: concern around the elimination of all tolling events, recognition of administrative challenges for short (1-2 day) tolling events. What additional tolling events could continue?
- Mac Pevey shared changes to the draft tolling statute:
 - It takes away the 1-2 days stays and provides clarity for the department and staff.
 - Tolling would happen if the Secretary (of the Department of Corrections) issues a warrant, if a bench warrant is served, if individuals are serving confinement time as part of an original sentence, and for any period of confinement time for a subsequent felony.
- Members discussed and agreed to update the potential recommendation based on the changes: *“simplify tolling of supervision terms: terms of confinement shall be tolled for any period of time when an individual has absented themselves from supervision without prior approval of the entity in whose custody the individual has been placed, during which a Secretary’s Warrant has been issued; a period of time for which a Bench Warrant has been issued as specified by the court; while an individual is serving confinement time as part of the original sentence; and any period of time in confinement for a subsequent felony conviction (including pre-sentence confinement as confirmed by the detaining facility, a return per RCW 9.94A.633, or reclassification per RCW 9.94A.660/664)”*.
- The Task Force will review the updated potential recommendation at its next meeting.

Potential Recommendation 5: Tort Reform

- Members discussed needing more time to develop a recommendation, suggesting gathering more information and having presentations from the Attorney General’s office on the topic.
- This is a complex topic and will be a vital piece of a new supervision model.
- A member suggested a side group to discuss tort reform in a parallel process. While another member noted concern about the process of utilizing a side group, the working group tentatively agreed to it.

Potential Recommendations – Voting

The group discussed restoring voting rights to incarcerated persons. A member noted that the Legislature considered a bill on this last session, and that a legislator has plans to introduce a similar bill in the coming session. Working group members agreed for the facilitators to call the group member who suggested the potential recommendation to see if they would be content to let the legislative process play out on this.

Remaining Potential Policy Change Categories – Rehabilitative Programs & Services; Community-Based Involvement; Tort Reforms; Human-Centered Approach; Change Terminology of “Offender”

- Members will review the potential recommendations and get back to the group with thoughts.

Adjourn