

Washington State Criminal Sentencing Task Force
DRAFT Meeting Summary: May 7, 2020
 Virtual Meeting via ZOOM

Task Force Member Attendees:

- Judge Veronica Alicea-Galvan
- Nick Allen
- Lydia Flora Barlow
- DeVitta Briscoe
- Suzanne Cook
- Lew Cox
- Sen. Manka Dhingra
- Rep. Roger Goodman
- Russ Hauge
- Rep. Brad Klippert
- Gregory Link
- Sonja Hallum
- Sen. Mike Padden
- Mac Pevey (attended on behalf of Sec. Sinclair)
- Judge Roger Rogoff
- Chief James Schrimpsheer
- Tarra Simmons
- Clela Steelhammer
- Jon Tunheim
- Councilmember Derek Young

Presenting Attendees: Mac Pevey, Christopher Poulos, and Nick Allen (Subject Matter Experts from the Reentry & Reducing Recidivism Working Group)

Facilitation Team: Amanda Murphy, Chris Page, Molly Stenovec, Hannah Kennedy, Maggie Coughlin – William D. Ruckelshaus Center

WELCOME, INTRODUCTIONS, REVIEW AGENDA, and GROUND RULES

The Facilitation Team (Amanda & Chris) welcomed the Criminal Sentencing Task Force (Task Force) members, alternates, and guests to the virtual meeting. Chris reviewed the meeting goals and agenda, highlighting the meeting's primary focus: a presentation of first offer" recommended policy changes from some Reentry and Reducing Recidivism Working Group (RWG) subject matter experts.

Amanda reminded members of select ground rules from the Task Force's agreed-on [Operating Procedures](#) and noted some best practices for Zoom. She also noted that TVW would livestream the meeting.

TASK FORCE MEMBER UPDATES

Task force members were asked to give a short update on one thing that has inspired them recently. Responses included inspiration from Washingtonians in their creativity, kindness, and support during the pandemic; acknowledgement of the hard work colleagues and employees are putting in; the compassion and generosity of all the essential workers across the state; and signs that the state might soon reopen its economy.

Mac Pevey noted that the Department of Corrections (DOC) is currently writing departmental policy in response to bills that passed in the 2020 legislative session: policies addressing the "swift and certain" bill and compliance credits.

FACILITATION TEAM and CO-CHAIR UPDATES

The Co-Chairs expressed gratitude for the dedicated efforts of the working groups and the time folks are dedicating to this work between full Task Force meetings. They mentioned looking forward to hearing more from the RRR Working Group while acknowledging the complexity of presenting draft recommendations.

Sentencing Effectiveness Working Group (SEWG) Update

Amanda provided an update on the progress of the SEWG. The Group met March 19th to create a set of desired outcomes, discuss indeterminate and determinate sentencing, and review potential grid options. Members created a sub-group to further explore approaches to improving and simplifying the grid. The subgroup has since

met three times. Lauren Knoth (WISPP) created a decision tree to guide the subgroup's discussions and developed and presented several mock grids for the subgroup to review. May 19th, subgroup members will report back to SEWG members, who will present their "first offer" of potential policy recommendations to the Task Force at its June 4th meeting. A Working Group member noted that the group has been discussing simplifying the categories of offenses as well.

Reentry and Reducing Recidivism Working Group (RWG) Update

Molly reviewed the Group's efforts and progress to date. She emphasized that today's presentations are to update the full Task Force, explain how potential policy recommendations could meet the Task Force's goals, and solicit feedback and advice from members. She noted that the list of desired outcomes and "first offer" recommendations are not meant as polished recommendations, but to provide a glimpse of emerging ideas to improve the system to support reentry and reduce recidivism.

PRESENTATIONS: RWG "First offer" of Findings and Potential Policy Recommendations

Potential Recommendations for Community Supervision: Presented by Mac Pevey and Christopher Poulos

1. *Supervision should be based on an individual's Risk Needs Responsivity (RNR) as well as research and evidence-based practices, not solely on their conviction(s).*
 - Mac explained RNR:
 - The risk principal explains who we should focus supervision time and resources on.
 - The need principal determines what resources should be provided to individuals
 - The responsivity principal helps match individuals to services and interventions based on the person's identity and specific needs.
 - Washington has decreased the amount of people in supervision.
 - There are outstanding questions, such as whether RNR should be applied throughout sentencing or at specific times.
 - Mac noted that this recommendation would meet the public safety goal.
2. *Simplify tolling of supervision terms by limiting tolling to absconders.*
 - This recommendation is driven by an RCW. DOC is required to toll an individual who is unavailable for supervision. Mac explained that tolling information is not readily available, sentence recalculation is complex, and the vast majority of errors would be eliminated if tolling were simplified. This recommendation would meet the goal of reducing complexity and errors.
3. *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 distinct benefits to front-loading reentry services for individuals. This kind of model carries a lower number of cases per staff member, allowing more focus on the needs of individuals. It would meet the goals of improving effectiveness and promoting public safety in the long-term.
4. *Develop and implement a formal motivational- and coaching-focused supervision model, to include a comprehensive training component for DOC staff.*
 - This would provide an opportunity to refocus and reframe DOC work to align its supervision model to research from the Sentencing Guidelines Commission (SGC) and others. It meets the goals of improving effectiveness and promoting public safety.

Mac highlighted DOC's current culture reform efforts and emphasized that these recommendations speak to an intentional investment to support the individuals that they serve. He noted that changes in tort reform could allow staff to focus on individuals instead of tort.

Christopher Poulos echoed support for recommendation 3 and 4 above. He noted the difference between a social work model and an enforcement model for supervision. He shared a story about a ride-along he did south of Seattle and the impact that officers have based on how they show up and what routine supervision visits look like. He also mentioned wariness of over-supervising.

Chris- emphasized the importance of preparing individuals for reentry during incarceration. He noted that resource shortages mean some services (e.g., substance abuse disorder treatment) are not available until the end of confinement (when they tend to be less helpful than if they had been provided earlier) if at all. He suggested individuals could receive training for jobs while incarcerated, in sectors that are hiring.

Chris also noted that recommendation 4 is important and there are roles in the motivational- and coaching-focused model for Community Custody Officers (CCOs) and trained mental health counselors. Mac pointed out the first year of release is a critical time, with the highest likelihood for someone to reoffend. This recommendation would allow flexibility to respond to specific individual needs.

Question/Comments/Reponses

The Task Force provided comments and asked questions regarding the RWG's "first offer" of community supervision recommendations:

- Members had questions about who is currently supervised under the law. Mac noted that generally, DOC focuses on the highest-risk individuals, based on risk assessments. The Revised Code of Washington (RCW) specifies which offenses qualify and contains statutory limits on who DOC can supervise.
- Some members voiced support for the change in values related to DOC's staffing model.
- Others noted the need for more details about cost and specific changes for DOC et al to have a credible implementation plan.
- Multiple members found the new supervision model encouraging.
- Suggestions:
 - DOC could consider separating the case management and supervision functions, because it may prove hard for one person to do both.
 - This new model should be opened to individuals incarcerated under felony sentences in county jails as well.
- Several members asked clarifying questions, e.g., about who is supervised and what happens if a court orders supervision and DOC overrides that order.
- Others noted that the multiple issues associate with supervision comprise an example of the current complexity and suggested that the Task Force discuss supervision eligibility.
- A member suggested expanding the services supporting successful reentry to much earlier in the system, i.e., to judgements and sentences.
- Task Force members discussed:
 - Ways to make the reentry system more rational. For example, the current "no contact with felons" supervision requirement may actually create barriers for reentry by making it difficult for individuals to attend substance abuse treatment groups or maintain positive relationships with credible messengers.
 - The need to balance officer safety with the desire to adopt a more case-management-focused approach to supervision. While members agreed it was not necessary to show up to routine supervision check-ins in SWAT team gear, they also acknowledged officers may have safety concerns and may be required to wear protective gear and/or be armed.
 - The potential for tort reform and its potential effect on local resources and officers. Counties may be interested in a discussion on this. Others mentioned that Washington is on the leading edge of liability in torts.

Relief from Legal Financial Obligations (LFOs): Presented by Nick Allen

1. Nick Allen presented some potential recommendations related to LFOs. He noted the need for input from a larger group of stakeholders and reviewed recent legislative changes, including eliminating interest on non-restitution, waiving the criminal filing fee if a person is indigent (defined by income level and level of services being received) at the time of sentencing, waiving additional DNA collection fees if DNA was previously collected. These reforms represent an important first step but the RWG identified additional post-sentencing policy changes recommendations that could further support the Task Force's goals: *Relief from restitution not owed to individuals*
 - Nick noted that Sen. Dhingra previously sponsored a bill to relieve individuals from restitution owed to insurance companies, if they lack ability to pay. He suggested the Task Force consider expanding this relief beyond insurance companies, allowing the courts to decide.
2. *Automatic waiver of existing non-restitution interest*
 - This potential recommendation would get rid of interest on non-restitution fines and fees that began accruing prior to the effective date of HB 1783. Currently individuals must file a motion in court, which adds complexity to the system and can reduce effectiveness as the courts must approve any such request.
3. *Interest on restitution*
 - Nick mentioned that this topic came up when HB 1783 passed. Currently the only way to address interest is to pay off the full principal. He asked the Task Force to consider whether a 12% interest rate (i.e., the current interest rate on restitution principals owed) is appropriate compared to the prime rate of 3-4% and encouraged the Task Force to discuss lowering (or eliminating) interest.
4. *Relief options while individuals are incarcerated*
 - Nick noted that HB 1783 made three statutory changes, but they do not apply to incarcerated individuals. People can ask for a waiver, but currently the law states that they must be released from total confinement before they can ask. Requesting (and getting) a waiver during incarceration could leave people with wages available to them at the end of incarceration via reentry work beginning immediately after release. It would not have all deductions going to fees, which reduces barriers to stability and independence.

To leave time for questions, comments, and responses, the Task Force did not discuss the following recommendations (to be revisited at future Task Force meetings):

- Statute of limitations on collection of LFOs;
- Fine adjustments; and
- Transfer of LFOs to collection agencies.

Question/Comments/Reponses

Task Force members provided the following comments and questions regarding the "first offer" recommendations about LFOs:

- The state may not be able to waive interest because the state constitution prohibits "gifting" to people (a similar issue has arisen around deferring property taxes during the pandemic). The Department of Revenue cannot waive that interest.
- Some members have heard of individuals going back to prison for not paying what they owe, and have heard complaints about counties collecting interest by going to collection agencies 30 days after an individual's release. Nick said a potential recommendation on this (transferring LFOs to collection agencies) was on the list of those the Task Force did not have time to discuss due to time limits.

- A member expressed support for continuing the conversation on the LFO interest rate and offered that a county clerk could give a presentation on how the interest rate is assessed, which could help with crafting recommendations.
- A member voiced concern about the logistics of LFOs and coordination among various state entities (e.g., clerks, DOC, etc.) and shared a personal story about complications that arose between a county and DOC after paying off restitution.
- **Q:** Has there been discussion about housing availability for individuals after release? A member described a rented house with numerous recently released people with no guidance or oversight other than DOC doing occasional checks. **R:** The Reentry Council has identified housing as the primary barrier to reentry. There are varying opinions on what solutions could look like, but agreement that without housing, successful reentry is almost impossible.

A member shared a personal story about their own barriers after being incarcerated. They applied for a certificate of rehabilitation and noted that Washington state's version does not have "teeth" (like California's). The member asked if the RWG might suggest potential policy recommendations around pardons and restitution.

REFLECTION/FEEDBACK and NEXT STEPS

Amanda encouraged Task Force members to join either Working Group to help craft potential recommendations. She reviewed the upcoming meeting schedule, which has the Task Force starting to move toward consensus on recommended policy changes in September. At its June 4th meeting, the SEWG will present. The Center will be scheduling mid-point check-ins with individual members over the next few weeks.

Members noted that there was a productive Statewide Reentry Council call the previous week and invited members to participate in future calls.

The co-chairs thanked Task Force members for their continued commitment.

OPEN TIME FOR MEMBERS TO SHARE UPDATES/INFO & ENGAGE WITH PUBLIC IN ATTENDANCE

- **Q:** Is reentry policy something the DOC is working on? **R:** Mac noted that he followed up with another member to look at the Graduated Reentry model.
- **Q:** Is anyone aware of studies on length of prison stay and chances for successful reintegration? **R:** We would have to define what "successful reintegration" is. Lauren Knoth (WSIPP) noted that there is research on recidivism but that it has many variables and qualifiers, so requires specificity and delicacy.
- **Q:** How could the upcoming pandemic-related state budget deficit affect this work? **R:** The state cannot do many cuts to DOC; the work of the Task Force is likely to produce cost savings that can provide resources for reinvestment into the criminal justice system (e.g., reentry programs could save money that could go back to DOC). There are opportunities to create efficiencies.

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