

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

Attendees:

- Nick Allen, *Interests of Incarcerated Persons*
- Sonja Hallum, *Washington State Office of the Governor*
- Mac Pevey (alt. for Secretary Sinclair), *Washington State Department of Corrections*
- Chris Poulos (alt. for Lydia Flora Barlow), *Statewide Reentry Council*
- Chief James Schrimpsheer, *Washington State Fraternal Order of Police*
- Clela Steelhammer (research/data support), *Caseload Forecast Council*
- Jon Tunheim, *Washington Association of Prosecuting Attorneys*

Guests:

- Representative Lauren Davis

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

WELCOME & AGENDA REVIEW

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 afterward 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.