Approved Meeting Minutes

April 12, 2018

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on April 12, 2018, in Centennial Office Building, Lady Slipper Conference Room, 658 Cedar St., St. Paul, MN 55155. Present were Commission Chair Justice (Ret.) Christopher Dietzen, Vice-Chair Judge Heidi Schellhas, and Commission members Angela Champagne-From, Valerie Estrada, Judge Caroline Lennon, Cathryn Middlebrook, Sergeant Salim Omari, Peter Orput, Commissioner of Corrections Tom Roy, and Senior Judge Mark Wernick.

Also present were MSGC Executive Director Nate Reitz and MSGC staff members Nicole Jaspersoun, Kathleen Madland, Jill Payne and Anne Wall.

Members of the public present were Richard Frase, University of Minnesota Law School; and Lisa Netzer, Minn. Department of Corrections.

1. Call to Order
   Chair Dietzen called the meeting to order at 1:30 p.m.

2. Approval of Agenda
   This was on the agenda as an action item.

   Chair Dietzen recognized Commissioner Roy who wished to add an item to the agenda in which he would briefly describe Department of Corrections’ information handouts related to probation that he had distributed before the meeting began. Chair Dietzen added this item to Agenda Item #5.

   **Motion** by Judge Lennon and second by Ms. Estrada to approve the meeting agenda, **as amended**.

   **Motion carried** unanimously.

3. Statewide Tornado Drill Procedure
   This was on the agenda as an announcement.

   There was an announcement that there would be a tornado drill at 1:45 p.m., at which time meeting participants were to remain in the meeting room with the doors shut to practice the drill.
4. Approval of Meeting Minutes

This was on the agenda as an action item.

Motion by Judge Wernick and second by Sgt. Omari to approve the meeting minutes from March 8, 2018.

Motion carried unanimously.

5. Minnesota County Attorneys Association’s Probation Reform Position Paper and Commissioner Roy’s Probation Informational Handouts & Earned Compliance Credit Report

This was on the agenda as a discussion item.

Chair Dietzen called on Executive Director Reitz who introduced the MCAA’s position paper and reviewed a memo to Chair Dietzen from Nate Reitz dated April 10, 2018 regarding whether or not the Commission has ever considered the promulgation of probation guidelines or related rules. The Commission discussed the position paper and memo.

Commissioner Roy described the handouts related to probation and prison population. The Commission discussed the handouts and Earned Compliance Credit Report.

6. Possible Modifications to Criminal History Scores

This was on the agenda as a presentation and discussion item.

Chair Dietzen called on Executive Director Reitz who said that Senior Research Analysis Specialist Anne Wall would present this item. Ms. Wall explained that she would present scenarios for modifying the Custody Status Point (CSP), criminal history weights, and felony decay based on what the Commission directed staff to due after its March 8, 2018 meeting. Ms. Wall said that, for some of the scenarios, staff had to make assumptions about what the Commission wanted, and that notes were used to explain the methodology. Ms. Wall explained that for most scenarios, staff prepared a data table showing the number of offenders sentenced in 2016, how the population appears under the current policy, and what the demographic and prison bed impact would be. The Commission reviewed the following scenarios.

- Scenario #1: Abolish CSP.
- Scenario #2: Abolish CSP except for offenders on the Sex Offender Grid.
- Scenario #3: End eligibility for CSP for offenders on probation at the time of discharge from probation rather than at the end of the original probation term.
• Scenario #4: Limit a Custody Status Point to current offenses ranked at severity levels 8-11 on the Standard Grid, A-C, & H on the Sex Offender Grid, D8 & D9 on the Drug Offender Grid, attempted murder in the first degree.

• Scenario #5: Limit a Custody Status Point to current offenses ranked at severity levels 8-11 on the Standard Grid, A-C, & H on the Sex Offender Grid, D8 & D9 on the Drug Offender Grid, attempted murder in the first degree, or a weapon offense under Minn. Stat. § 609.11.

• Scenario #6: Limit weight of a CSP to 0.5 point for offenders whose custody status derives from a prior offense that has a weight of less than 1.0 point, is a misdemeanor or gross misdemeanor, or is a statutory stay of adjudication for a drug offense under Minn. Stat. § 152.18.

• Scenario #7: “Judge Lennon’s Proposal” (as initially drafted, provided to staff, and summarized by staff) to eliminate the M/GM point, limit CSP to standardized durations.

• Scenario #8: Start decay period at date of sentence (DOS) for probationers and date of discharge (DOD) for prisoners. (No data table prepared.)

• Scenario #9: Change decay period for prior felonies to 10 years, and 5 years for misdemeanors & gross misdemeanors. (Data table limited to change to felony decay.)

Chair Dietzen recognized Vice-Chair Schellhas who said she would like to refine the Serious Violent Offenses (SVO) list and incorporate it into one of the scenarios for consideration.

The Commission discussed pros and cons to each scenario, public safety and recidivism issues, and the progress of the Robina Institute’s recidivism study. The Commission asked staff to report back on revisions requested to scenarios #1, #3, #4, #6, #8, and #9 and include rates per 100,000, at a future meeting.

The Commission discussed approaches to moving forward this agenda item including inviting stakeholders to the meetings to get feedback or setting up a roundtable forum.

7. Executive Director’s Report and Legislative Update

This was on the agenda as an information item.

Chair Dietzen called on Director Reitz who reported that on the following items: 1) The Robina Institute will be ready to report its recidivism findings to the Commission on May 10, 2018; 2) The Commission may wish to consider working backwards from a November 2018 public hearing if it intends to propose modifications to criminal history calculations in its 2019 Report to the Legislature; and 3) Friday, April 20, 2018 is the Legislature’s 3rd committee deadline in which
committees must act favorably on major appropriation and finance bills, and that omnibus crime bills are moving forward and contain changes to sex offenses.

8. **Percentages in the Demographic Impact Statement (DIS)**

This was on the agenda as a discussion item (time permitting).

Chair Dietzen called on Executive Director Reitz who presented three documents: 1) Demographic Impact Statement on House File 3610; 2) A memo to the Commission from Mark Wernick dated April 3, 2018; and 3) “Pre-Decisional Draft” Demographic Impact Statement on House File 3610.

Chair Dietzen called on Judge Wernick to present his memo who explained that he asked MSGC staff to normalize the demographic data and present it per 100,000. Judge Wernick said that, in his opinion, it was within the Commission’s DIS policy to do so.

**Motion** by Judge Wernick and second by Commissioner Roy to direct staff to prepare the pending Demographic Impact Statement on House File 2964 according to the “Pre-Decisional Draft” to include rates per 100,000 and the appendix of historical demographic data.

**Motion carried** unanimously.

Chair Dietzen asked Executive Director Reitz to draft an amended DIS policy that clarifies that it is the Commission’s intent to include the normalization of data per 100,000.

9. **Public Input**

Chair Dietzen called on members of the public present and asked if anyone wished to speak.

No members of the public came forward.

10. **Adjournment**


**Motion** by Judge Wernick and second by Ms. Middlebrook to adjourn.

**Motion carried** unanimously.

The meeting was adjourned at 3:42 p.m.