Carry on! Great work.

Shelby Andress

Sent from my Verizon, Samsung Galaxy smartphone
I feel in the case of a crime committed by a person with mental illness the judge should be able to sentence probation for as long as they feel is appropriate for everyone's protection.
I am writing in support of the proposal before the commission to cap probation lengths at five years, except for certain serious crimes, as noted in the proposal.

I believe that this proposal makes common sense for several reasons, without posing a serious risk to public safety.

First, the variation in probation lengths between judicial districts is unfair on its face.

Second, it seems unnecessary to spend longer than five years on probation. The risk of recidivism drops sharply after the first few years on probation. Probation officers work with an offender to meet conditions set for probation in the early stages of conditional release.

Third, as of 2018, 86 percent of all cases involved 60 months or fewer of probation. So again the impact on the public is likely to be small, but the impact on an individual offender’s life can be enormous.

Moreover, many of those returned to prison for a probation violation do so for a violation having little to do with the original crime.

Additionally, a bona fide new offense will send the offender back to incarceration, if convicted, regardless of whether that individual is on probation or not.

In sum, I think that it is wasteful of taxpayer funds to supervise low-risk people who remain on probation for long periods when that supervision resource could be used for better supervision of higher-risk offenders.

Thank you for considering this point of view.

Steve Brandt

Minneapolis
Hello,

I am a voter in St. Paul in Rep Lesch's district and want to comment on the proposed amendments to the MN Sentencing Guidelines. Unfortunately, I will not be able to attend the hearing tomorrow afternoon. I fully support the cap on probation terms to be 5 years or less and would also support caps of even less time.

Thank you,
Julia
I am appalled by the idea an unelected, unaccountable commission is being given carte blanche to decide whether or not criminals responsible for committing heinous crimes should have their sentences reduced. This reeks of the MN democrat party attempting to gain favor and subsequently votes by reducing such sentences. It helps no one and incentivizes recidivism. I am having a hard enough time considering ever voting for democrats again. Pass something like this and you have lost my and my families vote for good.

Ryan Christiansen
To whom it may concern,

I am writing to urge you to reform current probation policy in Minnesota by implementing a 5 year cap for felony offenders, with the exception of those convicted of sex crimes or homicide.

I strongly support the recommendations made by Paul Schnell in this regard, as articulated in his Star Tribune op-ed of December 16.

Thank you for your attention to this important issue!

Douglas Clement
Letter from a Divided Nation

27 July 2019
My Dear Families, Tribes, Peoples, and Nations:

While possessed by the sanctity and deity of Almighty God who is Potentate of all things, in all things, and above all things. All praise be given to God whom laid the foundations of the earth whose axle is placed sacredly between the mysteries of this present atmosphere, and within the ombudsman of his glory and divinity. Praise, graciousness, thanks be to God from that of a sound mind, and heart. Amen

I write to you as a fellow being to which I am human, in constant pondering upon the current state of all whom contribute toward the human race as we are one whole, supernaturally congruent to one another under one God, For he chose us in him before the creation of the world to be holy and blameless in his sight. In love he predestined us for adoption to son ship through Jesus Christ, in accordance with his pleasure and will to the praise of his glorious grace, which he has freely given us in the One he loves, the only begotten son of God Jesus Christ the Savior of this whole world. In him we have redemption through his blood, the forgiveness of sins, in accordance with the riches of God’s grace that he lavished on us. With all wisdom and understanding, he made known to us the mystery of his will according to his good pleasure, which he purposed in Christ, to be put into effect when the times reach their fulfillment—to bring unity to all things in heaven and on earth under Christ just as the apostle Paul has esteemed him to be, as established within the 66 books of our Lord, the God of all, bless his holy and divine word, The Holy Bible. Amen

We have all become at war as individuals, as a perspective community, subsequently as a nation. A nation that displays the greatest merit of division, racial and economic inequalities, disparities to which have reached new heights among systems such as private institutional slavery of today, modernized as new facilities of prisons and are now utilized to house men and women whom are minority stricken. Such skillfully produced systems have produced patterns that have become one-sided and conducive toward worldly infatuations among ones whom congregate one to another. Those of whom remain powerful and influential along the realms of authority and dictatorship to which self-righteous wealth are equally distributed among fellow counterparts and foot soldiers who carry out and fulfill a sole purpose which is to divide and conquer throughout a land their forefathers declared as being “free”.

I write to you as one of many who is solely affected by the current conditions of a contrite world order, whereas the digression of the current race, and of a people whose hearts have turned away from the one and only living God Almighty, to which his majesty, glory, power, dominion, of a bountiful splendor which falls from the anointed counsel of his tabernacle upon this dying earth. Yet we choose to ignore God, and distastefully reject the opportunity to live a life of righteousness that falls within the divine order of his will, his virtues, the ethos of his character, refusing to submit to his order which is the truth and the light, ultimately the only
“way” to sup with him, an experience and or opportunity that offers the quenching of thirst through the cup of salvation. Amen

I invite you to retrospectively give an account as to the many instances among the American history and culture, a culture that has established a perpetual force of condemnation toward all, those whom are counted out by societal standards, be it by the identification of race, wealth, religion or religious affiliation, gender, education, social apparatus, most importantly by the strategic vernacular of a constitutional law that was established at a table, in a room occupied by those whom were not of multi-cultural descent. A systematic design ferociously applied and protected by the false doctrines collectively gathered together and emphasized through the distribution of unjust laws enforced via the judicial court system, the lack of voting powers via the house and the senate, inevitably exercised through the powers of the illegitimate imaginations of ungodly men and women whom form societies that are sacred and far from the laws, statutes, and decrees, a well governed covenant created of God, to which Moses the great servant of God humbly established a written decree of commandments as to the fellowship between man and God, displayed through relationship. We have abandoned the responsibility to live peacefully within the harmonic rhythm of agape love, we choose to love yet only ourselves, we yearn for the riches of the world, we fall short of Gods glory as we allow the momentum of world order to cause a great disdain.

TO BE CONTINUED

Author: Latrice A. Collum

(Sorry that I cannot attend the meeting on 12/19, however I will attempt to participate on Thurs Jan 9 at 1:00 p.m.)

Thank You,

Latrice Collum
Health Care Call Center Rep|HCA HCEO Customer Srvc 2
Minnesota Department of Human Services
Hours: 8:00 a.m. – 4:30 p.m. Mon-Fri
Latrice.Collum@state.mn.us
O: 651-431-3862
mn.gov/dhs

From: Terrell, Justin (CMAH)
Sent: Tuesday, December 17, 2019 5:59 PM
Cc: Carey, Jasmine (CMAH) <Jasmine.Carey@state.mn.us>
Subject: Action Alert: 12/19 Public Hearing on Probation Reform
Come have your voice heard at MN Sentencing Guidelines Commission Public Hearing

PUBLIC HEARING – MN Sentencing Guidelines Commission

Thursday, December 19, 2019
1:30 p.m.

Room 1100, MN Senate Building, 95 University Ave W, St. Paul, MN (across from the Capitol)

The MN Sentencing Guidelines Commission will be holding a public hearing on probation reform that would create a probation cap. There has been opposition from members on the commission and they held a vote to postpone and cancel this public hearing, but both votes were unsuccessful. So it is imperative that we show up and let the commission know that our community supports this reform and that our voices must be heard before they make their final recommendation.

Minnesota has the fifth-highest rate of community supervision in the country and our current law allows for people to spend up to 40 years on probation. As we know, Minnesotans of African Heritage represent a disproportionate amount of those who are currently on supervision, therefore our voices and stories must be heard before they make their final recommendation. Please take action by spreading the word and committing to one or all of the action items below.

Ways to take Action

1. **Attend the Public Hearing** - Come attend the Public Hearing this Thursday, Dec 19th. It makes a big difference when community shows up are in the room during public hearings.

2. **Give public testimony** - If you wish to offer public testimony, email the MSGC sentencing.guidelines@state.mn.us.

3. **Provide written testimony** – send in your written testimony until Dec 24 (submit via email to sentencing.guidelines@state.mn.us).

4. If you unable to attend this Thursday, please come to the final vote on **Thurs Jan 9** at 1:00 p.m.

5. Room 230 of the Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King, Jr. Blvd., St. Paul, MN 55155

Thank you,
Justin Terrell
Executive Director
Council for Minnesotans of African Heritage
Centennial Office Building G57
658 Cedar Street
St. Paul, MN 55155
Justin.Terrell@state.mn.us
O: 651-757-175
C: 651-356-1820
CMAH Website mn.gov/cmah
Twitter @CMAHMIN
Twitter @JTerrell41

Caution: This e-mail and attached documents, if any, may contain information that is protected by state or federal law. E-mail containing private or protected information should not be sent over a public (nonsecure) Internet unless it is encrypted pursuant to DHS standards. This e-mail should be forwarded only on a strictly need-to-know basis. If you are not the intended recipient, please: (1) notify the sender immediately, (2) do not forward the message, (3) do not print the message and (4) erase the message from your system.
Chair Mitchell, commissioners:

My name is Will Cooley and I am representing the Decarcerate Minnesota Coalition.

We endorse the proposed cap on probation.

Until the 1980s, the nation looked to Minnesota as a model state for corrections. That is no longer the case. While other states have closed prisons, lowered their incarceration rates, and reduced the number of people on community supervision, Minnesota has gone in the opposite direction.

In addition, our shameful racial disparities remain among the worst in the country, a problem we have known about for decades and failed to address.

Our current probation system is arbitrary and inconsistent. As Commissioner Schnell has noted, this makes our society less safe, because a legitimate criminal justice system depends on fairness and uniformity.

We urge the Sentencing Guidelines Commission to move this proposal forward. Let’s kickstart the process of making the North Star state a leader instead of a laggard in criminal justice reform. For the next step, we ask for action on technical violations: No New Crime, No New Time.

Thank you,

Will Cooley
I support limiting and reducing terms of probation, especially for non-violent offenders in Minnesota. In many cases, probation allows the state to hide the actual numbers of people subject to the criminal justice system. By using long terms of probation instead of prison time, the state can claim to have a low number of inmates while at the same time subjecting many more people to oversight by the corrections system for decades. Long periods of probation work against rehabilitation and restoration by limiting the abilities of those who have served their time to return to regular society by imposing limits on their abilities to work, find housing, and have a voice in society (which is to say, vote). Rather than face the consequences of their misdeeds and move forward, the formerly incarcerated are regularly reminded of their status as criminals for many years to come. This is excessive. The goal of pronation should be reintegration into general society -- not extending the terms of punishment.

--

*Trudy K. Cretsinger*

Nothing is beyond You. You stand beyond the reach of our vain imaginations, our misguided piety. The heavens stretch to hold you and deep cries out to deep, saying that nothing is beyond You …

(R. Mullins, M. McVicker & T. Booth)
Web site information request by [redacted] on 2019-12-17.

firstname: Laura
lastname: Dahlheimer
email: [redacted]
phone: [redacted]
address: [redacted]
city: Anoka
state: MN
zip: 55303

requestedFromType: Offender
description: I'm a 1st time offender with 30 year probation. My offense happened in Oct. 2003 at the age of 46 in Hubbard County, after 8 months jail time, and search warrant thrown out and released. I moved back to the Twin Cities to work with Hospice to care for my terminal mother. The State appealed the decision and charges were brought back. After 2 years of court hearing, and travel back and forth, and more dollars spent, my legal console suggested that I plea to avoid trial. With a $500.00 fine and 30yr. probation I had paid it off in less then a year, and was employed in Aug. 2004. I'm currently on unsupervised probation. Bought a home in 2010, and lost my job at Wells Fargo due to a 2nd background check after 12 years of service. I applied for a section 19 wavier from the FDIC and after 1 year of a financial, biological, and criminal background check a wavier was granted o that I can go back into the banking industry. Unfortunately after all the unemployment courses and job search at the age of 60 I have been unable to secure any sort of living wage job. I've gone back to court after 10 years and requested that my probation be lifted, and the judge decided not. This was a one time offense that my husband and I was charged with and we have gone through many years of recovery and changed our life around. My major concern is when I get into my 80's will my felon effect my senior housing our nursing home? I work part time at a grocery store and have no benefits and would love to attend this upcoming hearing, but my schedule this time of year is very busy. Please keep me informed and get back to me with any support or suggestions.   Laura Dahlheimer
Dear Members of the MSGC,

I urge you to move on probation reform in Minnesota to limit probation as outlined in Paul Schnell’s letter to the editor in the Star Tribune.

Christine Danielson
Saint Paul, MN 55105
It is time for uniform probation guidelines in Minnesota

Richard DeBeau
Northfield, MN

Sent from Mail for Windows 10
December 19, 2019

Minnesota Sentencing Guidelines Commission
685 Cedar Street, Suite G-58
St. Paul, MN 55155

Members of the MN Sentencing Guidelines Commission

I commend the commission for commencing a long-overdue consideration of probationary sentencing practices in MN. From what I read the commission is aware that the current method is disparate and fails to be proportionate, uniform, rationale or predictable as evidenced by the variability among sentencing jurisdictions when criminal histories and offense categories are similar.

I am retired after working in probation and supervised release for 40 plus years for the MN Department of Corrections in urban and rural MN, and I am sharing observations acquired in that duration. The unwarranted, aforementioned disparity in sentencing is further exacerbated by several practices accompanying probationary supervision. Some judges discharge offenders early from probation after the offenders have satisfied all probationary conditions and demonstrated positive adjustment; some judges refuse or are reluctant to ever discharge probationers early, notwithstanding compliance with conditions and good behavior; some correctional systems have policies or practices, which preclude recommending early discharge; and some judges will not discharge early without prosecution approval. Arguably, prosecutor positions often do not align with good corrections, since the prosecutorial role frequently has other objectives. Disparities in the assignment of initial probation sentences are thus additionally compounded by the discharge practices of the different jurisdictions.

The disparity is furthermore aggravated by the imposition of supervision fees for probation throughout the state. The longer one is on probation, the more one pays. The practice commenced in MN in Stearns County years ago and ultimately spread throughout the state. Probationers pay fees annually for probation that vary by jurisdiction, and in some systems offenders also pay fees for drug testing, community service work, transfers to other state systems or other states, as well as for other standard services. There is no uniformity in the amounts charged or the services for which offenders must pay. Although systems reportedly assign fees based on the offenders’ ability to pay, the fees are regularly burdensome to offenders. Offenders commonly experience financial stress, and the fees complicate their ability to meet personal financial obligations, pay the numerous other court imposed fees, exhibit positive adjustment, and occasionally the payment of restitution. Corrections systems are frequently zealous in their collection efforts, since offender fees have become a substantial part of corrections operational budgets.
Those offenders who receive longer probation sentences than those in other jurisdictions or are supervised by judges or agencies that decline to discharge offenders from probation, notwithstanding good behavior and satisfaction of probation conditions, experience obviously inequitable treatment. Their freedom is at peril for unwarranted reasons for longer durations, which is substantial, since the probationary rules are numerous and onerous, and in MN too often result in imprisonment. Offenders serving longer sentences for these reasons also experience longer exposure to the collateral consequences of probation supervision, e.g., ineligibility to vote and restricted employment and rental opportunities.

The imposition of gratuitously long probationary sentences contributes to burdensomely large caseloads. Correctional systems consequently and appropriately must prioritize supervision by reducing the level of supervision of offenders deemed less risky or hazardous. As a result, the volume or caliber of offender supervision becomes dependent on the sentencing and discharge practices of the sentencing jurisdiction.

Clearly assigning offenders committing the same offense with the same criminal histories to widely varying and occasionally gratuitously long sentences is conspicuously unjust. Citizens living under the same laws and constitution should expect uniform treatment. Standardizing probation lengths would significantly ameliorate the injustice. Arguably, more comprehensive fairness will only occur when there is also agreement on conditions which warrant presumptive discharge from probation, and there is standardization of supervision fees or they are eliminated.

Thank you for considering this urgent issue and the opportunity to provide information and opinion.

Andy Doom
St. Cloud, MN 56304
I support the new guidelines being proposed. The current guidelines with the wide ranges of probation terms are neither fair nor equitable. In addition, excessively long probation sentences have not been shown to improve public safety. They also are costly and the resources could be used more effectively to provide additional supervision/support to those who may be struggling to reenter society.

Susan and Paul Dragsten
Minneapolis, MN 55413
Testimony of Richard Frase, Professor of Law, University of Minnesota Law School, Director, Robina Institute of Criminal Law and Criminal Justice
Minnesota Sentencing Guidelines Commission
December 19, 2019

In prior presentations, the Robina Institute has demonstrated that currently, the vast majority of individuals sentenced to probation receive probation terms of 5 years or less (fig. 1). Statewide, less than one-fifth of individuals receiving probation are sentenced to longer probation terms. Thus, a policy that imposed a 5-year cap on probation would not significantly change the way that probation terms are sentenced.

Figure 1. Cases Sentenced to Probation 2010-15

The current proposal would cap probation terms at five years. Given that the Commission’s primary consideration is public safety, Dr. Julia Laskorunsky, a Research Scholar at the Robina Institute, conducted further analysis to determine if there was a relationship between the length of probation and recidivism.

The study focused on two samples: all felony offenders sentenced to probation in Minnesota in 2003 and released from jail in 2003-2004; and all felony offenders sentenced to probation in Minnesota in 2012 and released from jail in 2012-2013. For both groups, recidivism was operationalized as a felony reconviction (using date of offense) within the follow-up period. In total, 10,129 offenders sentenced in 2003 were followed up to 13 years post release (up to December 31, 2015). For this group, Recidivism results are reported within 2 years and within 13 years following release from jail, or from the date of sentence for offenders without a conditional jail sentence. The 2012 sample includes 9,953, offenders who were followed for 2 years post release.

As shown in Figure 2, for the 2003 cohort, the 2-year felony recidivism rate ranged from a low of 10% in the Fifth Judicial District to a high of 20% in the Sixth Judicial District. The 12 to 13-year recidivism rate ranged from a low of 30% in the Eighth Judicial District to a high of 47% in the Sixth Judicial District. But

---

1 Excludes a small number of individuals (31) who were sentenced to probation with no time on supervision.
2 Excludes a small number of individual (91) who were sentenced to probation with no time on supervision.
interestingly, in two comparable Judicial Districts—the Second (Ramsey County) and Fourth (Hennepin County)—the recidivism rates were nearly identical, despite the wide variation in probation lengths. Similar results can be seen in Figure 3, which shows the recidivism rates for the 2012 cohort.

Figure 2. Felony Recidivism Across Judicial Districts for 2003 Probation Cohort (N=10,129)

Figure 3. Recidivism Across Judicial Districts for 2012 Probation Cohort (N=9,953)
To explore this relationship further, the Robina Institute developed two statistical models—one for individuals sentenced in each cohort—to isolate the effect of probation length controlling for other relevant factors that may affect recidivism such as offense and offender characteristics (i.e., offense type, severity level, criminal history, age, race, and gender).

For the 2012 cohort, the results showed that length of the probation had no effect on recidivism over a two-year period for offenders sentenced to probation in 2012 (N=9,376). Offenders sentenced to shorter probation term in 2012 were no more likely to re-offend with a felony offense than offenders sentenced to longer probation terms when important criminal case and offenders characteristics were accounted for. However, the model showed that many other factors were significantly associated with recidivism, such as offender demographics and offense related factors (e.g., offense type, jail time).

For the 2003 cohort, the results showed that length of the probation had a small negative effect on the likelihood of recidivism over a 12-13 year period for offenders sentenced to probation in 2003 (N=10,129). Offenders sentence to shorter probation terms in 2003 were slightly more likely to recidivate with a felony over the next 12-13 year period than offenders sentenced to longer probation terms. However, this effect was substantively small — with the odds of recidivism decreasing by 1% for each additional year of supervision. Given this finding, it would take a significant amount of resources to see even a small gain in public safety. Like the 2012 model, this model showed that many other factors had a greater effect on the likelihood of recidivism, such as offender demographics and offense related variables.

The analysis also shows that compared to probation sentence length, the relationship between recidivism and offender and case characteristics is considerably stronger. All the demographic control variables and many of the case level characteristics showed both a statistically significant and substantively meaningful relationship with recidivism. This suggests that efforts at reducing recidivism could be more effective by focusing on higher risk offenders, rather than on probation sentence length. Similarly, variations in the likelihood of recidivism remained between districts after controlling out individual case and offenders characteristics, suggesting that a focus on local services and criminal justices practices could also result in substantive reductions in re-offending.

Using the 2003 cohort, Graph 1 shows the hazard of recidivating over the entire study period. As offenders begin their supervision, their risk of recidivism increases until about one and a half years post release or post-sentencing and then sharply declines. Thus, the risk to reoffend is greatest in the first
In summary, across the state, the reductions in recidivism achieved from additional months on probation are somewhat minor. The most drastic reduction in recidivism occurs during the first few years of supervision. This means that if people are going to fail, most likely it will be within their first few years. But it also means that extending supervision terms beyond those few years are likely not obtaining great enough reductions in recidivism given the costs of supervision and the possibility that if someone receives too much supervision, in fact, they might be more likely to recidivate.3

Dear MSGC,

I wish to submit this for official inclusion in the official record. In my testimony at the public hearing on December 19, I incorrectly stated that no one from the Commission had reached out to me. As a matter of fact, Kelly Mitchell reached out to meet with me immediately upon being named Chair of the Commission, based on having witnessed my previous testimony when she was not serving as a member of the Commission. I have apologized directly to Chair Mitchell and am following up on her offer to meet. I appreciate her leadership of the Commission and did not want my misstatement to stand uncorrected.

Sincerely,
Brian Fullman
Hello,

I am writing in support for the recommendations to streamline probation sentencing across the state, and to cap probation for minor offenders at 5 years.

Our system should be based on a fair foundation, and not unduly punish people of color.

Leah Gannon

St Paul MN 55102
To whom it may concern:

I strongly support capping probation in MN to five years.

We have one of the longest term of probation in the nation and it doesn’t help with rehabilitation. I urge you to limit probation to a five year cap.

Sincerely,
Diane Garetz
I state my name here, Diane Hoselton Genova, as a Minnesota voter supporting the action of probation reform. And, I thank you for your endeavors.

Sincerely,

Diane Genova
Hello!

My name is ILse Griffin and I am a resident of St. Paul. I firmly support a 5 year cap on probation in the state of Minnesota.

Thank you,

ILse

--

Ilse Hogan Griffin
Pronouns: She/Her/Hers
MA in TESOL, Hamline University '16
BA in English, University of Wisconsin-Madison '09
Please do not punt this issue to the legislature as it is way too important to leave to the partisans. Thank you for your nonpartisan, thoughtful work which will truly help in rehabilitating people to become contributing members of our society.
The current disparities are unconscionable.
Thank you.
HH

Henry Hanten
HMH of St Paul, Inc.

This communication, including attachments, is confidential, may be subject to legal privileges, and is intended for the sole use of the addressee. Any use, duplication, disclosure or dissemination of this communication, other than by the addressee, is prohibited. If you have received this communication in error, please notify the sender immediately and delete or destroy this communication and all copies.
It’s outrageous that someone is sentenced to probation for 34 YEARS! Or even 10 years. Based upon the little I know about this issue, I tend to support placing a maximum of 5 years, with, of course, an option for the judge to impose less time. People make mistakes, serious ones sometimes, but we must have a meaningful way for them to become whole again if they meet requirements. “All of us do better when we all do better” - Paul Wellstone

Sent from my iPhone
I’m writing to support the change to limit probation to five years as recommended by the committee. I believe a person who’s been released from prison after successfully completing their sentence should not be denied their civil rights for an unlimited length of time. As long as a person is on probation their employment, housing and voting rights are in question.

Rebecca Heyns
Dear Members of the MSGC,

I urge you to move on probation reform in Minnesota to limit probation as outlined in Paul Schnell’s letter to the editor in the Star Tribune.

Margaret Horstmann
December 18, 2019

Dear Members of the Minnesota Sentencing Guidelines Commission,

I write to express my support for the probation sentencing reform you are currently considering.

Over the past 12 years I have had the privilege of walking along side several formally incarcerated individuals as they return to their family, neighborhood, faith community and neighborhoods. As a volunteer with Amicus and The Minnesota Council of Churches my role as a mentor has allowed me to witness first-hand the myriad challenges returning citizens face as they seek to meet the expectations placed upon them upon release from prison – procurement of stable housing and employment as well as positive civic and community engagement. I believe that the five year cap on probation will have a positive impact upon the good faith efforts of returning citizens to be productive and positive members of the community.

Conversely, based upon personal connections with numerous men and their families, I have seen how long probation sentencing serves as an impediment to a productive and full life. Mentees, some of whom I have maintained contact for years, have not only been thwarted in their efforts to attain key practical goals such as safe housing, secure employment and meaningful civic participation, they also experience a feeling of being perennially diminished both emotionally and spiritually. Probation is to them a seemingly endless drain on their souls and psyche.

When our children were younger there was a board game we tried to play called “Shoots and Ladders”. In that game participants climb along a path toward a destination. As players move along making progress towards their goal, they often end up on a space on the board that sends them careening down a shoot that moves them backwards -- sometimes almost back to the bottom of the board. In my experience, people who play shoots and ladders often give up before anyone reaches the end of the path. There are just too many shoots downward and not enough ladders upwards. The game is such a source of continual frustration that everyone gets dispirited and nothing is gained.
Probation policies with excessively long sentences is not unlike a game of Shoots and Ladders. It’s structure is such that people on the path toward a goal experience the process that hinders not helps progress towards goals that restore lives, families and communities. I have seen the eager anticipation and hopes of those recently released diminished too often because of set back after set back, based on rules that seem like shoots set in place to defeat rather than lift up toward the end goal of restoration.

I urge you to take action that can put an end to many probationary sentences that are longer than needed and detrimental to the ultimate goal of full restoration.

Sincerely,

Eliot Howard

[redacted], Edina, MN 55424
I am very happy to know that you are reviewing probation guidelines. Our grandson spent some prison time for a drug conviction. He is prohibited from going out of state for two years. This restriction keeps him from seeing many of his family members, including us. Please reform these outdated rules.

Thank you,
Juliana Howard
St. Joseph, MN 56374
Please approve Commissioner Paul Schnell's proposed changes to probation. Let's stop wasting probation officers' time by making them monitor low-level offenders for inordinate amounts of time. Let's stop unfairly misapplying the law based on geography, but statewide standards. And above all, let's honor the fact that people deserve a fair sentence and probation that reestablishes their rights as citizens in a timely way, once they've served their fair sentence.

Thank you.

Sherry Johnson
St. Paul
--
"A society grows when an old men plant trees whose shade they know they shall never sit in"
Good Morning:

There should be changes to probation, with differences to fit the crime.

Rape/child abuse and the like should have a lifetime of probation. Those who survive these acts will spend the rest of their lives working through it and will need lifetime support so that they can have a good life. The same goes for trafficking.

Crimes that do not directly affect the life of a person or animal should have smaller probation periods. It's just "stuff" in these cases. We already attach too much to stuff. People, animals, and the planet are much more important. Yes, I've had things stolen from me and I was upset at the time. I had work to do to get back my driver's license, credit cards, and such.

Because Black people and people of color are targets of the injustice system, there need to be changes. There is too much latitude given to judges on sentencing and such.

Too many lives have been destroyed. It's the 21st century. Do better.
To Whom it May Concern,

I am writing to support a 5 year cap on probation.

Julie Borgerding July
[Redacted]
St. Paul MN 55116
I am writing in support of capping probation lengths at 5 years. The geographic sentencing discrepancies that exit do not reflect the concept of equal justice for all.

Imposing caps would reduce case loads for officers so they can focus on serious offenders who require monitoring. Endless probation keeps offenders from fully integrating into society. Inability to fully integrate due to probation can lead to inability in gaining employment and even homelessness. These consequences harm society.

Integration should be the focus of the criminal justice system. I hope you will impose a 5 year cap on probation.

Ann Karner

Sent from my Verizon, Samsung Galaxy smartphone
As a lifelong citizen of Minnesota, which I have always considered a leading state in care for all its citizens, I was shocked to hear that a limit of 5 years for probation is being considered. Shocked that we are not considering a 2 year limit. Anything longer than 2 years is punitive and would certainly not be effective. I support the 5 year limit as a starter.
I support a cap on probation.
Thank you for listening.
Karen Knox
Hello,
I am writing to express my strong support for capping probation sentences at 5 years. I believe that people should have the chance to return to probation-free life within a reasonable time after serving their terms of justice for their crimes.

While I'm not able to come to the public hearing on Dec. 19th because I am a public school teacher who will be working during the hearing, I wish to let you know that my support for this sensible new measure is there!

Please pass this measure with confidence that you will have public support for doing so, as well as knowing that you will be making a great difference in the lives of ex-cons who will be allowed to rejoin civil society and put their crimes behind them without being tethered to the probation system for unreasonably long periods of time.

Sincerely,
Laura Lindell
St Peter, MN
Please Forward To:
Sentencing Guidelines Commissioner Members

I urge you to act favorably on the proposed modifications to presumptive sentences (for a stayed sentence) on December 19. I am a retired corrections professional who worked for three states between 1967 and 2015. In the last half century, experience and research has taught us a great deal about which government actions work and which cause harm in our attempts to reduce crime and to support those at risk of reoffending. We know that too often conditions of probation become an additional impediment to success in the community. Minnesota’s long periods of probation supervision directly result in larger than necessary caseloads with diluted services to those who would benefit from closer supervision and support or, as an alternative, the hiring of more probation officers than necessary thereby diverting funds from services that do reduce crime - affordable housing, education, employment, and behavioral health care.

Jay Lindgren
St Louis Park, MN
Madam Chair and Commissioners, thank you. Good very late afternoon my name is Jay Lindgren I recently retired to St. Louis Park in this, my home state, of Minnesota.

I am here today to strongly urge you to act favorably on the proposed modifications to reduce the length of probation sentences.

I am a retired public servant serving as a corrections and child welfare professional for three states - Minnesota, Texas and Rhode Island - between 1967 and 2015. So I am here as a recovering bureaucrat and an active member of Isaiah.

In the last half century, experience and research has taught me a great deal about which government actions work and which cause harm as we worked to reduce crime and to provide support for those at risk of offending or reoffending.

I was both a participant in — and a horrified observer of the negative albeit unintended consequences of our work — foremost racial inequity and its negative collateral affects on individuals and families. Families that were already marginalized within our schools and economy. I will email the Commission the link to the Atlantic Monthly article “The Black Family in the Age of Mass Incarceration.” It is by far the best description I’ve read on the development, during the last half century, of our criminal justice system.

REFORM is not only a moral imperative but can yield smart and effective ways to reduce crime and increase individual participation in our common economic and civic life.

We have learned a great deal in these 50 years. We now know that conditions of probation are often an additional impediment to success in the community.

Minnesota’s long periods of probation supervision directly result in larger than necessary caseloads — diluting services to those who would benefit most from closer supervision and support or, as an alternative, the hiring of more probation officers than necessary thereby diverting funds from services that we know do reduce crime — well targeted cognitive behavioral therapy and other types of behavioral and physical health care, close monitoring and the essential services we all require to be functioning and effective citizens: affordable and safe homes, quality education, meaningful employment, and family supports.

All are part of Isaiah’s “Faith Agenda!” — — These REFORMS are necessary and urgent!

Thank you for the opportunity to testify!
Thank you for the opportunity to testify yesterday. I am sending my prepared remarks and the link to the article I mentioned. Please ensure both items are included in the Commissioner’s packet.
Jay Lindgren

Dear Minnesota Sentencing Guidelines Commission Members:

I am writing to respectfully request that the Minnesota Sentencing Guidelines Commission (MSGC) consider adopting as a recommendation under its Minn. Stat. 244.09 Subd. 6 authority that the legislature instructs and resources the MSGC to collect probation data.

Recently, probation practices in the state of Minnesota have come under scrutiny by legislators, the media, and the public. Policymakers are being asked to make pressing decisions on important probation proposals. We should all be able to agree that the more informed we are about the current state of probation, the better equipped we will be while making these decisions.

For that reason, the Minnesota House passed a bi-partisan bill (HF 997/SF 2477), authored by myself and Senator Chamberlain last session, that instructed the MSGC to collect probation data in the same way it collects sentencing data. To be specific, Section 2 of the language in HF 997/SF 2477 amends Section 244.09, Subdivision 6 to read:

Subd. 6. **Clearinghouse and information center.** The commission, in addition to establishing Sentencing Guidelines, shall serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing and probation practices, and shall conduct ongoing research regarding Sentencing Guidelines, use of imprisonment and alternatives to imprisonment, probation terms, conditions of probation, probation revocations, plea bargaining, recidivism, and other matters relating to the improvement of the criminal justice system. The commission shall from time to time make recommendations to the legislature regarding changes in the Criminal Code, criminal procedures, and other aspects of sentencing and probation.

In addition, Section 3 of the language in HF 997/SF 2477 amends Section 244.09, Subdivision 8 to read:

Subd. 8. **Administrative services.** The commissioner of corrections shall provide adequate office space and administrative services for the commission, and the commission shall reimburse the commissioner for the space and services provided. The commission 3.8 may also utilize, with their consent, the services, equipment, personnel, information and
resources of other state agencies; and may accept voluntary and uncompensated services, contract with individuals, public and private agencies, and request information, reports and data from, and establish data integrations with, any agency of the state, or any of its political subdivisions, to the extent authorized by law.

Adopting such a recommendation to the legislature would help raise awareness of the need for probation data to better inform the legislature and to help the MSGC perform its duty of ensuring “uniformity, proportionality, rationality, and predictability in sentencing.” Thank you for your consideration.

Sincerely,

[Signature]

[Handwritten Signature]
I am a Minnesota resident that opposes your intent to reduce sentencing for convicted criminals. I want a safe state to live in. Your time and attention to this matter is appreciated!

Linda McCroskey
Hastings, MN
While our justice system tries it best, given we are all human...judges included, we as a civilized society need to have uniform standards as to how to choose terms and length of pardons.
Dear MN Sentencing Guidelines Commission,

Minnesota has one of the highest rates of community supervision in the country as well as extremely long probation periods for many of those individuals accused of crimes. These long probation periods increase the risk for technical violations which can lead to incarceration. Less time on probation increases the chance of people being successfully returned to society as law abiding citizens. Research shows that long probation does not increase compliance or lead to better public safety outcomes. Probation sentences are irregular and depend on what county the crime was committed. The Sentencing Guideline Commission was created to "maintain uniformity, proportionality, rationality, and predictability in sentencing."

The answer lies in putting a cap on probation sentences. I hope you will help make this a more just process with a better outcome for those who have the right to a better opportunity for success.

Sincerely, Kate Meyer
December 13, 2019

Minnesota Sentencing Guidelines Commission
c/o Kelly Mitchell, Chair
658 Cedar Street
St. Paul, MN 55155

Dear Members of the Minnesota Sentencing Guidelines Commission:

Thank you for the opportunity to submit comments on the probation changes proposed by the Minnesota Sentencing Guidelines Commission. We write to offer our support for reforming the state’s probation sentences.

As background, the Justice Action Network is a national bipartisan organization working to reform the criminal justice system at the state and federal level, and has been active in Minnesota since 2016. Our organization works with local law enforcement and advocacy groups to propose and advocate for common sense criminal justice reform initiatives that reduce crime and improve public safety. In 2016, the Justice Action Network was forefront in negotiating and supporting the Drug Sentencing Reform Act (DSRA) through the legislative process.

In addition, the Justice Action Network has worked with several associations and advocacy groups on reforming the state’s probation laws. These meetings and negotiations led to bipartisan legislation authored by Senator Roger Chamberlain (R-Lino Lakes) and Representative Jamie Long (DFL-Minneapolis) during the 2019 Legislative Session. The legislation was supported by the Justice Action Network, Minnesota County Attorneys Association (MCAA), Public Defense Board, and the Minnesota Association of Criminal Defense Attorneys (MACDL).

The agreement between the groups proposed imposing a five-year cap on length of time a defendant may be placed on probation for a felony offense, with exceptions for criminal sexual conduct, murder, and murder-related offenses. The legislation further allowed county attorneys to request up to two extensions of a maximum probation term if the defendant failed to successfully complete mandated treatment, pay full restitution, or upon a court finding, that the defendant continues to be a threat to public safety. The first extension would have been up to three years and the second extension would have been up to two years.

Minnesota law governing felony probation sentences is open-ended, resulting in varying probation terms across the state and, in some cases, extremely lengthy probation sentences. When a defendant is convicted of a felony offense, there is currently no uniform standard setting the length of probation, which leads to disparate outcomes for similarly situated...
defendants. Minnesota law allows the court to set the probation term anywhere between four years and the statutory maximum sentence, which may be up to 40 years.

In fact, Minnesota is only one of three states that uses statutory maximums regarding probation sentences, according to the Robina Institute at the University of Minnesota. This uneven standard has resulted in wide-ranging probation sentences in Minnesota for same or similar offenses.

Overly lengthy probation terms require state and local governments to spend time and resources in ways that are not the best use of taxpayer dollars given the high caseload handled by probation officers across the state. This legislative agreement will give prosecutors and probation officers greater flexibility to focus on the offenders most in need of supervision, rather than wasting taxpayer resources on those highly motivated individuals who have successfully met their supervision conditions.

Many Minnesotans on probation are working hard to rehabilitate themselves and become productive members of their communities. They have jobs, support their families, and are members of their communities. Yet, they can often endure probation sentences that last for years and can serve as unnecessary barriers to success. They live under the constant threat of being sent to jail for the smallest technical infraction, even when making all efforts to be law abiding citizens. Reforming and standardizing the length of probation across Minnesota will make the state’s communities safer, reduce recidivism, and save taxpayer dollars.

It is our hope that the Minnesota Sentencing Guidelines Commission will closely review the current probation cap proposal and make changes, as much as possible, to conform with the agreement reached by the groups. We believe the proposal should ensure uniformity across the state but also allow some discretion for judges to responsibly extend probation sentences when the circumstance warrants an extension.

Sincerely,

Jenna Moll, Deputy Executive Director
Justice Action Network
Please support a cap on probation periods. Revenge is not a good motive that helps society have justice and peace. Probation has shown to be a failure when used unchecked. Again, it is poor people who suffer in our state and nation. Holding exprisoners on probation often makes it almost impossible to be assimilated and successfully returned to useful work and normal schedules. Thank you for your attention.

Doctor and Mrs. Marvin Napgezek
My name is Lars Negstad, and I am the Policy Director for ISAIAH. ISAIAH is an organization of people of faith working for racial and economic justice in Minnesota.

We believe Minnesota can build a justice system with restoration and redemption at its foundation, rather than punishment or retribution. Minnesota prides itself on being “above average,” yet we have not overcome an ugly legacy of racism. We want Minnesota to lead the way in dismantling mass incarceration and mass punishment which continually erode efforts to build racial equity in our state.

Probation sentences in Minnesota are erratic and often much too long. We urge you to support the reform proposal to bring uniformity, rationality, and, yes, mercy to these sentences.

In his Letter from a Birmingham Jail, Rev. Martin Luther King, Jr. writes to a group of clergy who had called the movement’s activities “unwise and untimely.”

I would urge you to read the entire letter. For today’s hearing, I will lift up this passage:

“... I must confess that over the past few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro’s great stumbling block in his stride toward freedom is not the White Citizen’s Council-er or the Ku Klux Klanner, but the white moderate, who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension, to a positive peace which is the presence of justice; who constantly says: "I agree with you in the goal you seek, but I cannot agree with your methods of direct action"; who paternalistically believes he can set the timetable for another man’s freedom; who lives by a mythical concept of time and who constantly advises the Negro to wait until a "more convenient season." ...

I had hoped that the white moderate would understand that law and order exist for the purpose of establishing justice, and that when they fail in this purpose they become the dangerously structured dams that block the flow of social progress.

I hope you will heed these words, and vote to support this urgently needed reform.

Thank you.
To the Commission:

I was disturbed that 3 of the 5 Commissioners opposing the probation reform proposal did not attend yesterday’s Public Hearing. Therefore, please include this message along with the attached testimony which I delivered orally yesterday, in the official public record and distribute to members of the Commission.

Thank you,

Lars Negstad
Policy Director
ISAIAH
2356 University Ave. W, Suite 405
St. Paul MN 55114
www.isaiahmn.org
@ISAIAHMIN
@LarsNegstad
I support a probation system that better reflects the values of redemption and rehabilitation, not punishment.

Too many have suffered for too long in MN under our current Probation system! I'm ashamed of how we compare as a state to others, in length of probation terms!

Joy Nelson, retired MSW
Minneapolis, MN
To Whom It May Concern-

I am no expert on probation and its rules, but I did read about it, and I think 5 year cap is where the State of Minnesota should go. From what I am reading, people can get in trouble for missing a meeting, and other "insignificant" things that happen in life. Forty years on probation, even if it happens rarely, seems cruel and totally unnecessary. Keeping people on probation too long psychologically keeps them stuck about moving forward. And Minnesota does punish both men and people who are not caucasian at a greater rate and for longer periods. This isn't paradise here. It is my observation that both conservatives and liberals are guilty. That said, I would hope that the State will get its act together to move forward in the process.

On a practical level, I am sure it's cheaper, and even more importantly, helps people move forward in life. Unless the problem is one of a deep psychological nature, then people get better with age, generally. I know studies prove this general pattern.

So, I support the 5 year cap and I hope that this state which prides itself on being "progressive" will continue with this process.

Thank you.

Michael Ofjord
Minnetonka, MN 55305
As a pastor, I have worked with multiple persons on probation as they have sought to rebuild their lives. This cap is absolutely necessary. We must build a system that gives those who have committed a crime the chance to learn their lesson, change their lives, and be able to live once again as full citizens. It is a question of dignity and efficacy. Re-entry is difficult enough; it is in none of our interests to make it impossible.

Please pass this 5 year cap on probation.

Rev. Kate Payton
Glendale UMC
Savage, MN
Testimony to the Minnesota Sentencing Guidelines Commission

Michelle Phelps
Associate Professor of Sociology and Law
University of Minnesota (Twin Cities)
December 20, 2019

Thank you to the Commission for submitting this proposal for public testimony. One of my areas of expertise is in the expansion of what I call mass probation. While there has been a tremendous amount of scholarly and public attention on mass incarceration, it is less well-known that probation rates in the U.S. also climbed upwards in the 1980s-2000s, reaching “mass” proportions. At its peak in 2007, 1 in every 53 adults, and 1 in 12 black men, was on probation. By 2016, the total population under criminal justice supervision had declined to 6.6 million adults, with 56% of those adults (or 1 in 68) on probation. Over the past seven years, I’ve published a series of papers on this rise of mass probation, most recently in the Annual Review of Criminology.

Minnesota is one of the few states in the US that successfully resisted the push toward mass incarceration, keeping incarceration rates relatively low (for the U.S. context). Yet we have the 4th highest probation rate in the country, with much of that population concentrated in the Twin Cities. As other speakers have noted, Minnesota also has wide disparities in probation length across judicial districts and there’s little evidence that longer probation terms contribute to public safety. Today, what I’d like to spend my time on is the experience of being on supervision—and why it is harmful to continue supervision long past the point of effective intervention.

Pains & Gains of Probation
In 2016-2017, the Robina Institute for Criminal Law and Criminal Justice conducted over 100 focus groups with more than 150 adults on probation and 170 probation officers in several jurisdictions across the country (predominantly in Texas, Minnesota, and New York). In these public conversations, researchers asked people about their experiences with supervision—from both the point of view of adults under supervision and probation officers. In an article with Ebony Ruhland of the University of Cincinnati, I analyze these data to outline the “pains” and “gains” of supervision. In other words, how did supervision help and harm adults on probation?

Our results suggest that overall, while probation can help people to improve their lives (especially by getting sober from drugs and alcohol), it adds fiscal, time, and emotional burdens to already legally and socially precarious lives. These burdens feel particularly onerous when the person felt they should not be on supervision or should have already completed their term.

We categorize these pains under four themes:

1. **Demeaning Relationships with Probation Officers.** While some adults on supervision experienced supportive relationships with POs, many others described routine infantalization and abuse from their probation officers. In very tangible ways, probation strips adults of their independence and the ability to make autonomous choices about
their lives (e.g., where to live and work, how to spend their time, with whom to associate). One participant summarized “They treat us like animals” and there was vocal agreement in his focus group. A woman chimed in, “Yeah, they disrespect us, you know,” and highlighted the disrespect of having to wait for two hours for a PO to then be questioned “up and down… in front of everybody.”

2. **Costly Services and Programs.** Providing access to resources (like drug treatment and education programs) was, for many probationers—especially those with the greatest service needs, the primary way probation officers exhibited care and support. Yet many adults on probation perceived these services as “bullshit” that cost precious time and money.

3. **Financial and Time Constraints.** Probationers and probation officers in many jurisdictions were preoccupied with collecting probation fines and fees – of LFOs. Adults on probation spoke at length about the challenges of meeting all of probation’s varied demands, including how much time it took and how much it cost. Between attending programs, working to pay LFOs and program fees, reporting to POs, and getting from one place to the other with limited transit options—there were not enough hours in the day.

4. **Threat of Revocation.** Finally, all of these stressors were exacerbated by the constant threat of revocation. Not paying for programs, failing to appear for meetings, and more could mean incarceration. Being on probation meant that minor misdeeds like smoking marijuana or talking to friends who have criminal records, can carry harsh criminal penalties. Probation officers have wide latitude to respond to violations of supervision, which made people on probation feel at-risk of discrimination.

All of this suggests that probation is often experienced as a severe sanction. Even when on “light touch” supervision, people on probation remain in a state of limbo, with everyday behaviors like being inside a bar or living outside the county or leaving the state could threaten their liberty. This suggests that long probation sentences carry steep penalties. Like imprisonment, Minnesota should use probation parsimoniously.

Thank you.

**References**


Dear MN Sentencing Guidelines Commission Members,

As you are learning, Minnesotans across our wonderful state of Minnesota support compassionate limits on Probation sentences for our communities and families. I am one of those Minnesotans who believes in a state that centers on people and values redemption, and I'm ready for state policies to match the integrity of my values!

I was pleased to see that you are meeting tomorrow to move a probation reform proposal forward with a public hearing to cap probation at 5 years! Blessings on this critical meeting and on all participants - both those speaking and those listening!

Appreciatively,

Beth M. Rademacher, Minneapolis

"First you pray for the poor and then you feed them. That's how prayer works." Pope Francis
Web site information request by bm_richards@yahoo.com on 2019-12-23.

---------------------------------------------------------------
firstname: bev  
lastname: richardson  
email: [redacted]  
phone: [redacted]  
address: [redacted]  
city: duluth  
state: Mn  
zip: 55802  
requestedFromType: Other  
description: Hello...I read the recent article in the Mpls.Tribune. What are resources to get involved and be a advocate for persons who suffer long term effects of not getting past convictions[drug related] off their records! if they serve time and do what is needed, then they should get their rights back....thank you, bev richardson

---------------------------------------------------------------
My name is Sarah Riedl and I'd like to state my support for capping probationary periods for the record. The MN Sentencing Guidelines Commission is considering adopting changes to conditions and durations of stayed sentences, and I support capping the length of probationary periods to no more than 5 years.

Lengthy probationary terms are costly to taxpayers and to the person under probation supervision, yet make no significant contribution to public safety. Making this change will free up funds that could instead be directed toward avoiding the criminal court system altogether. Those savings could be invested in positive infrastructure (such as education, recreation, health care, transportation, and housing), in those zip codes and communities where residents are most at risk for involvement in our criminal court and probation system. Investing in community in this way is likely to have positive public safety impacts.

Thank you for your time and consideration -- and thank you to the community members on the commission who are bringing their expertise to these issues. I hope the probation cap is adopted by the Sentencing Guidelines Commission.

Best,
Sarah
--
riedlbeast@gmail.com
Minneapolis, MN 55406
I completely support for a change and a better system. I am for the reform.
Hi,

I am a constituent living in Maplewood, MN. My name is Mary Root. Please support probation limitations to 5 years.

Mary Root
Hello,

I'm writing today to express my support for the proposed 5-year cap on probation sentences. Minnesota’s lengthy probation sentences do not improve public safety. A uniform system for early termination from probation means more people would be successful.

Minnesota state law allows for people to spend up to 40 years on probation. Extreme probation terms increase the probability for technical violations, which often lead to incarceration. In fact, about 60% of the total prison admissions in MN are for technical violations, not a new crime.

The just, fair society that we aspire to be should not include these kinds of penalties for people.

Thank you for considering my comments.

Sincerely,

Jake Rueter
, St Paul, MN 55104
MSGC,

I respectfully urge you to adopt new probation guidelines as per the bill passed in the MN House and as per this morning's article in the StarTribune by Paul Schnell. There is no good reason to delay adopting guidelines that support reduced probation time (MN has some of the longest probation times in the country!) and that bring consistency across counties. Waiting for the Senate to act (which they have thus far failed to do) needlessly costs taxpayers money and punishes unfairly and excessively those who have served their time.

Richard Sellers
Minneapolis, MN 55417
To whom it may concern,

I am a Ramsey County resident, and I fully support a 5-year cap on probation sentences.

I was horrified to learn recently that the *average* probation sentence in Ramsey County is 5 years and 9 months. For that to be the average means there must be many of people with longer sentences.

The extreme lengths of probation sentences in MN don't make anyone safer and they don't cut down on crime. Instead, they increase the chances for technical violations landing people back in incarceration. That doesn't help anyone -- not the families and communities where these individuals live, and certainly not our broader society. More importantly, it's just *wrong*. We need to be investing in ways to reintegrate and support the success of formerly incarcerated people -- not ensnaring them in years and years of probation.

Please -- I urge you to support a sensible, uniform policy that caps probation sentences at 5 years.

Respectfully,

Ian Slattery

Saint Paul, MN 55105
Hello,

I am in favor of the probation cap of five years. I am a Ramsey County voter.

Sincerely,

Debora Slee
We heartily support Paul Schnell's well-reasoned and time-critical proposal to make probation guidelines fair and uniform across the state of Minnesota. Please enact it without delay.

Elaine Sloan and Ross Moen
Golden Valley, MN 55416
TESTIMONY BEFORE THE MINNESOTA SENTENCING GUIDELINES COMMISSION IN
OPPOSITION TO PROPOSED GUIDELINES MODIFICATION TO LIMIT PROBATION TERMS

DECEMBER 19, 2019

Thank you for the opportunity to address the Commission on this proposed modification. My name is Robert Small. I am the Executive Director of the Minnesota County Attorneys Association which consists of the 87 elected County Attorneys, their Assistant County Attorneys and members of their professional staff. I am here to present testimony in opposition to the proposal regarding “MODIFICATION TO LIMIT PROBATION TERMS.” Our opposition is to both the procedure that the Commission followed leading up to this public hearing as well as to the merits of the proposal.

First let me address our procedural objections.

I. PROCEDURAL OBJECTIONS

As Commissioners, you each heard the procedural objections articulated by Justice Dietzen and Judge Larkin. I won’t repeat them except to say the MCAA agrees with all the irregularities and the consequences that flow from those irregularities noted by them and the other three Commissioners who voted in favor of postponing the public hearing to allow for greater discussion of workable probation guidelines and what might be alternatives to the current proposal.

Secondly, the Memorandum from Commissioner Schnell indicates that he spoke with “system stakeholders” and that “based on ...stakeholder input...” he submitted the proposal. The Minnesota County Attorneys Association is a supporter of Probation Reform. We started working on probation reform and having discussions with other interested groups in 2017. We published a position paper on Probation Reform in January 2018. Throughout 2018 we worked closely with the State Public Defender, the Minnesota Association of Criminal Defense Lawyers, the Justice Action Network, the Department of Corrections, and others to come up with an agreed upon draft legislation on Probation Reform. We all worked with Representative Long on his proposed legislation. Commissioner Schnell did not seek any input from us as a participant in this important
partnership of “system stakeholders.” Indeed, his proposal differs in significant ways from that which the partnership of stakeholders agreed upon. The MCAA is very open to working on alternative sentencing guidelines probation proposals such as those suggested by Justice Dietzen at the December 12th meeting. However, I sincerely question whether there is adequate time under the current time allotted – January 9th – to accomplish a guidelines solution to probation reform.

Thirdly, the Memorandum from Commissioner Schnell noted that there is urgency to passing his proposal “as lesser probation terms for some people would result in earlier restoration of voting rights...” That is a laudable goal and is something that has long been supported by the MCAA. But that is outside the charge the Legislature has given to the Sentencing Guidelines Commission. That is something for the Legislature to address and is simply not something that this Commission should consider as a reason for modification of the guidelines.

Lastly, the MCAA and its partners sought legislation because, in our view, that is the only body that has the legal authority to address the issue of setting caps on probation, to what offenses those caps would apply and, what the exceptions to those caps would be. The MCAA is of the view that if the Commission adopts this proposal, it is very likely there will be extensive litigation challenges to both the procedure followed by the Commission and to the authority of the Commission to set such a cap. Commissioner Schnell has informed me that Sentencing Guidelines Commissions in Oregon and Kansas, have established caps on probation. That is true. However, in both of those states the Legislature first enacted a statute setting the caps, the offenses to which each cap would apply, and what the exceptions to the caps would be. This information supports the MCAA position that without legislative action, this Commission does not have the legal authority to enact this proposal. To that end, those that seek the remedy this proposal appears to provide, will actually not achieve that result.

Those are our procedural objections. Next, let my address our objections to the merits of the proposal.

II. OBJECTION ON THE MERITS
A. The proposed modification fails to take into consideration the impact it will have on the ability of defendants to seek and obtain a downward dispositional departure from a presumptive commitment to prison.

We all know of the multitude of situations in which a defendant is facing a presumptive prison commitment under the guidelines, and assisted by counsel, knowingly, intelligently, and voluntarily enters into a plea agreement which allows for a downward dispositional departure which would include a period of probation in excess of 5 years. Indeed, the Commission and the Legislature may have heard about some of these cases. Just two examples. The first is from St. Louis County where the Defendant was charged with Kidnapping and was facing a presumptive 68-month commitment to prison. With the assistance of counsel, he knowingly, voluntarily and intelligently entered into a plea agreement for a downward dispositional departure to a stayed prison sentence and a 10-year probationary period. The second example comes from Wright County. Defendant was charged with first degree sale of methamphetamine. She was facing a 98-month presumptive prison commitment. The Defendant, with the assistance of counsel, knowingly, voluntarily, and intelligently entered into a plea agreement which called for a downward dispositional departure from that 98-month presumptive prison sentence to a stayed sentence with a term of probation of 40 years. The proposed modification takes the option of negotiating a downward dispositional departure with a probationary period of more than 5 years off the table as these two defendants did, and the consequence, as you heard from other Commissioners, may likely be having more people getting the presumptive prison commitment as the sentence. Defendants should have the option of entering into a plea agreement with the assistance of counsel, knowingly, voluntarily, and intelligently agreeing to a length of probation greater than 5 years.

B. The proposed modification will have the potential for unintended consequences in situations where and there are complaints charging multiple counts or where there are convictions for multiple counts.

The proposal states that “When the court stays execution or imposition of sentence for a felony offense, the length of the stay must not exceed five years or the statutory maximum term of
probation, whichever is less.” If a defendant is charged, say with four separate counts of felony level theft, rather than a plea negation to allow the defendant to plea to one count and have the other three counts dismissed at sentencing, it is likely that the plea offer will require a guilty plea to more than one count so that the period of probation would be longer than 5 years so as to allow for victims to fully collect the court ordered restitution. A concrete example is a case from a County in Greater Minnesota where a Defendant was charged with 10 felony counts of theft by check. There was a plea agreement in which the defendant would plead guilty to one felony count and the State would dismiss the remaining 9 counts, serve 10 years of probation and make restitution payments to the 10 victims of $31 636.74. Pursuant to this proposal, the State would likely demand that the defendant plead guilty to at least two felony counts in order to get the 10 years of probation and the payment of restitution to the 10 victims.

C. The proposed modification limits the time period for other victims to fully recover restitution.

The proposal does have a provision that extensions of probation are governed by existing statute, specifically 609.135 subd. (g) and (h); (g) pertains to payment of restitution and (h) pertains to court ordered treatment. Let me talk about restitution. Under the proposal, a defendant who is receives a probationary sentence and is ordered to pay restitution will have 5 years plus a potential of 2 more years to pay. Let me share two specific examples of how that would work in specific cases:

The first example comes from a case in greater Minnesota County, McLeod County. The Defendant was convicted of 4 counts of Theft by False Representation with total restitution of $406,344.12 to be paid to 16 victims. The presumptive guideline sentence on the 4th offense was 45 months commitment to prison. The Judge granted the agreed upon downward dispositional departure and Stayed the execution of the 45-month prison sentence and placed the defendant on probation for 20 years. The court ordered $2,000 per month in restitution. The Judge departed from the guidelines on the basis that defendant had a restitution payment plan that was reasonable and would benefit the 16 victims. Rather than send defendant to prison for 45 months, the defendant earning only prison wages and no restitution payments being made,
Defendant was not sent to prison, placed on probation and he faithfully made restitution payments to the victims for seven years until he got cancer and passed away. If probation would have been limited to 5 years the court likely would have sent the defendant to prison and the victims would have received no restitution.

The second example is also from a case in a greater Minnesota County, Sibley County. The Defendant was mad at his neighbor and, using a flammable material, burned down his neighbor’s barn. The presumptive guideline sentence called for a 48-month commitment to prison. Pursuant to a plea agreement, he pled guilty to and was convicted of first-degree arson. The Judge departed from the Sentencing Guidelines and rather than sent the defendant to prison, pursuant to a plea agreement, he received a stayed sentence and placed on probation for 20 years. He was ordered to make monthly payments to pay off a large amount of restitution. That defendant has been making those payments faithfully for 12 years now. Under this proposal, the defendant likely would have been sent to prison with no restitution payments to the husband and wife victims.

D. This proposed modification makes no exceptions for attempted homicide or attempted sex offenses.

This proposed modification lists a number of felony homicide or sex offense cases for which the 5-year limitation does not apply. The list does not include “attempts” to commit any of those offenses. For example, under this proposal, a stayed sentence for attempted second degree murder or attempted first degree manslaughter would be limited to five years. I would also mention that in the legislation that this proposal is supposedly modeled after, attempts would be included in the “public safety” provision that would allow prosecutors to seek an extension of the 5-year probationary period.

E. The proposed modification excludes a number of felony homicides but does not include Criminal Vehicular Homicide.
As I said, the proposed modification lists a number of felony homicides for which the limitation does not apply. However, Criminal Vehicular Homicide is not on the list in the proposed modification and the 5-year probationary cap would apply to that homicide.

F. This proposed modification makes no exceptions for those who remain a threat to public safety.

There is nothing in the proposal that would allow for the prosecutor to seek and the Judge to grant an extension of the period of probation for a defendant, particularly a defendant who has been convicted of a violent crime, based on the defendant remaining a threat to public safety. The legislation that was proposed had such exceptions. So just some examples of violent felony crimes that would be subject to only a 5-year cap with no ability for anything greater than the 5 years are:

- Assault (which includes assaults with a dangerous weapon and those which inflict substantial bodily harm)
- Domestic Assault
- Domestic Assault by Strangulation
- Crimes committed for the benefit of a gang
- Aggravated witness tampering
- Aggravated robbery
- Kidnapping
- False imprisonment
- Arson
- Operating a machine gun
- Drive-by shooting
- Threats of Violence
- Riot
- Harassment
- Stalking
Shooting at a Public Transit Vehicle or facility
Sex Trafficking
Labor Trafficking
Great Bodily harm caused by the Distribution of Drugs
Malicious Punishment of a child
Child Endangerment

**G. The proposed modification capping felony probation at 5 years will result in having some gross misdemeanants being on probation for a longer period of time than felons, which is neither proportional nor rational.**

A person convicted of a felony First Degree DWI would have a maximum period of probation of five years while a person convicted of a gross misdemeanor Third Degree DWI would have a maximum period of probation of six years (609.135, Subd. 2(b)). The same six-year probationary period would be true for gross misdemeanor CRIMINAL VEHICULAR OPERATION convictions. That is neither proportional nor rational sentencing. It is also something that only the legislature can change and that is another reason why probation reform legislation is supported by the County Attorneys Association. I would also mention that in the legislation supported by the MCAA that this proposal is supposedly modeled after, this issue has been addressed.

**III. Conclusion**

Important stakeholders spent three years working on a legislative solution to probation reform. Those stakeholders were not included in the dialog that led to the proposal before you. The legislative proposal we worked on is a more comprehensive, progressive approach that also preserves public safety. A legislative remedy has not been exhausted and thus any action by the Commission is premature. Should the legislature not act this session on probation reform, I commit the MCAA will engage in discussions to find a workable guidelines solution. Until then, the County Attorneys Association opposes the modification and asks that each Commissioner vote no to its adoption.
(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

1. the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and
2. the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

1. the defendant has failed to complete court-ordered treatment successfully; and
2. the defendant is likely not to complete court-ordered treatment before the term of probation expires.
I support a probation cap of five years.
Karen Meert Steger

Sent from my iPad
Average Probation Sentence Lengths and Corresponding Average Prison Sentences (if executed), MUGC Public Data 2007-2017

In the figure below, cases sentenced from 2007-2017 with stayed sentences are categorized based on the length of their probation sentences: up to 3 years, 3-5 years, 5-10 years, 10-15 years, and more than 15 years of probation. For cases in each category, average probation sentences are compared to average prison sentences if the prison sentence were to be executed based on their corresponding guidelines cell. The maroon bars show the average probation length within each category, while the gray bars show the average prison sentence (if that sentence were executed). Offenses not eligible for the proposed probation cap are not included.
I am writing to support the five-year limit on probation.

I am a mentor for a Minneapolis Community and Technical College student through a program sponsored by MCTC and the Basilica of St. Mary. In 2018, I attended a number of hearings in both Ramsey and Hennepin counties as my mentee dealt with several drunk driving charges.

I am a retired newspaper reporter and I have covered a lot of trials. But, as we waited for my mentee’s hearing and sat through other defendants’ hearings, I was struck by the length of the probation sentences I saw imposed. It sometimes seemed to me that the some of the judges took pleasure in banning these defendants from voting for a decade or more while on probation.

i believe voting is a rehabilitative act. I want defendants to serve their time, in prison or on probation, and then get back to joining the rest of us in governing ourselves and those around us.

Thanks.

Patrick D. Sweeney
St. Paul, MN 55104
December 19, 2019

Dear Chair Mitchell,

The Council for Minnesotans of African Heritage offers the following statement in support of the proposed probation cap of five years. We believe the probation cap is an equitable policy that is a move in the right direction to address the current sentencing disparities that exist in our state for people of African Heritage.

Minnesotans of African Heritage account for 36 percent of the prison population but only six percent of the state’s population; that disparity rate has grown drastically over the last decade. According to the ACLU 2019 Blueprint for Smart Justice Minnesota report, the disparity between Black and white incarcerations in Minnesota is growing, between 2008 and 2018, the Black prison population grew by 13 percent while the white prison population fell by two percent. These disparities in incarceration rates fuel the disparities that exist in community supervision.

Minnesota also has the fifth-highest rate of community supervision in the country and Minnesotans of African Heritage represent a disproportionate amount of those who are currently on supervision. With these disparities existing at every step of the criminal justice system, the solutions implemented need to be intentional and equitable. As it stands, our current law is neither. It allows people to spend up to 40 years on probation. If we don’t address the probation terms and create uniformity, the current inequities will remain and the disparity rates will exacerbate.

We believe the five year probation cap offers sentencing reform that is needed, and will address the sentencing disparities that exist for people of African Heritage in the seven-county Metropolitan area as well those who live in greater Minnesota.

The Minnesota Legislature empowered the Council for Minnesotans of African Heritage to ensure that people of African heritage fully and effectively participate in and equitably benefit from the political, social, and economic resources, policies and procedures of the State of Minnesota. That is why the Council for Minnesotans of African Heritage is urging this body to adopt the cap on probation sentences, this change can serve as a catalyst in probation reform as well as a move in a more equitable direction.

Thank you,

Justin Terrell

Justin Terrell
Good morning,
I’m 49 year old and still on probation since 1991-92 cases; burglary and gas station involvement robbery; I was just there with bunch of friends; wrong place wrong time with the wrong people; It wasn’t me did the hold up...
I’m still on probation over 35 years later.  
It’s a corrupted system and wrong to keep torturing a person.  
Please check my record and case.  
I’m very disappointed, sad and hurtful.  
Daily depression and suicidal thoughts.  
No more hope and faith in life.

Thank you.

Sincerely,

Kou Thao 612-403-9752
Saint Paul Mn 55106

Sent from my iPhone
Members of the Minnesota Sentencing Guidelines Commission:

I would like to take this opportunity to address my concerns regarding the proposal to put a 5 year cap on the length of probation for most criminal offenses. While the proposal does exempt homicide and criminal sexual conduct offenses, it is my belief that placing a mandatory 5 year cap on all other offenses is not only unnecessary, by harmful.

I am a retired District Court Judge who is currently serving as a Senior Judge in the district courts of this state. Prior to my time as a judge, I served as the Meeker County Attorney. At the beginning of my legal career in the early 1980s I was in private practice and was regularly appointed to serve as a public defender.

The following are reasons that I believe a cap should not be imposed:

1. As the Robina Institute Study indicates, the vast majority of felony sentences receive a probation length of 5 years or less under current law. This proposal is apparently directed to the cases where probation, as originally set at sentencing, is longer.

2. The Robina Institute Study also showed that Minnesota has one of the lowest incarceration rates in the nation. Conversely, we have one of the highest probation rates in the nation. This is perfectly logical: Our state’s criminal justice goals prioritize addressing criminal behavior through treatment, education, and other types of assistance while the offender is in the community. Thus, the probation rate is not a negative, but rather a positive as it keeps offenders out of prison.

3. The sentencing guidelines reflect the goal of supervision, as opposed to incarceration. Indeed, even for those offenses/criminal history that result in presumptive prison sentences, the guidelines allow for downward dispositional and/or durational departures.

4. During my time as a prosecutor and as a judge, many cases were resolved by agreeing to a probationary sentence, whether through a departure, or plea to a lower level offense. A key consideration in these cases was often the issue of length of probation to ensure the offender can perform the required tasks and public safety will not be compromised.

5. I understand that a particular case involving Jennifer Schroeder is being used to support the maximum 5 year probation cap. Basing statewide decisions on a single person’s situation is usually a bad idea. While I have to rely on published media reports of her situation, this is what I glean from her situation (1):
   a. She was convicted of a First Degree Controlled Substance Crime involving the sale of methamphetamine. (2)
   b. She had a previous conviction of a felony Controlled Substance Offense that resulted in her criminal history score being at least 1 point.
   c. The presumptive sentence for the First Degree offense was a term of 98 months in prison.
d. She received a downward dispositional departure. She served less than a year actual time in a county jail. Her probation was originally sentenced to last 40 years.
e. She wants to be off probation now due to her having gone through treatment, remaining sober and law abiding, and the alleged negative issues the probation status is having on her life.
f. She was sentenced in 2013. Now six years later, she wants off probation. Yet if she had been sent to prison, she would have been in prison approximately 66 months, having been released within the past year, and still being on supervised release.
g. While I applaud her personal efforts and success, the question to ask is whether, if probation were capped at 5 years, she would have received the downward dispositional departure? Could the Court rely on her completing her tasks, and remaining sober, within a 5 year period?

6. During my time on the bench, I often would consider the length of probation in determining whether to accept a plea agreement or dispositionally depart. And of course, the length of probation must be set at sentencing. Set it too low, and there is little recourse later. So the initial probation period is based on a reasonable analysis of what the offender needs to do, as well as considerations of public safety.

7. Also during my time on the bench, I would receive requests to discharge from probation early. I would review these and make a decision on each individual case. And often, early discharges were granted when there was no further need for supervision. There is nothing that prevents an offender from motioning the court to reduce the length of probation. While many times the recommendations come from a probation agent, they are not the gatekeepers to the courtroom.

8. As a judge, I firmly believe that each case before me is different; i.e. has its own characteristics. Sentencing has always been a serious matter. Probation is an important tool for me to use. And the length of probation for everything other than homicide and criminal sexual conduct, is often a key issue.

I ask that you do not recommend a cap on probation of 5 years to the legislature. It will limit the options the Court has for working with an offender in many serious cases. In my opinion, a cap will result in an increase in executed prison sentences in serious cases.

Thank you for considering this. If you have any questions, please contact me.

Sincerely,

Michael J. Thompson
Senior District Court Judge, ret.
Formerly 8th Judicial District

(1) If my facts are in error, please disregard them.
Methamphetamine has been, and still is, one of the most destructive drugs in use today. While many consider it a “victimless crime”, I vehemently disagree. I handled case after case involving child protection where the parents, due to their meth use, could not even minimally care for their children. I just recently signed an order where the mother, 9 months pregnant, tested positive for meth. The time treatment time required for people trying to quit is estimated to be 9 months, not 45 days, to be successful, and even then the relapse numbers are high. So to this judge, the offense Ms. Schroeder committed is a serious, serious offense.
Thank you.

My name is Lindsay Turner and I'd like to state my support for capping probationary periods for the record. The Minn. Sentencing Guidelines Commission is considering adopting changes to conditions and durations of stayed sentences, and I am in support of capping the length of probationary periods to no more than 5 years.

I support this change because it will better Minnesota's probation practices with evidence, and free funds to make some steps towards equity. The evidence is clearly that lengthy probationary terms are costly to taxpayers and to the person under probation supervision, and that they make no significant contribution to public safety. (An unexplored question seems to be whether lengthy probationary terms are good for probation officers. I'm a former judicial law clerk and public defender, and have interacted a lot with probation officers. I'd be shocked if probation officers felt like a significantly impactful part of their job was continued monitoring of someone after 5+ years.)

My hope is that Minnesota will monitor the savings created by reducing probation sentences and use the money saved to invest in positive infrastructure -- culturally meaningful education, recreation, health care, and transportation and housing -- in those zip codes and communities where residents are most at risk for involvement in our criminal court and probation system. This divestment from probation to investment in communities would be an important step toward equity. Investing in community in this way is also likely to have positive public safety impacts.

Thank you for your time and consideration -- and a huge thank you to the community members on the commission that are bringing their expertise to these issues. I hope the probation cap is adopted by the Sentencing Guidelines Commission.

Best,
Lindsay

pronouns: she/her

Minneapolis, MN 55407

On Wed, Dec 18, 2019 at 1:34 PM Guidelines, Sentencing (MSGC) <sentencing.guidelines@state.mn.us> wrote:

Hello Lindsay,

Yes, you can submit your comment to this e-mail and we will pass the comment to the Minn. Sentencing Guidelines Commission members.
Good afternoon,

I'm not going to be able to make the public hearing tomorrow afternoon, but would like to submit a written comment in support of the Minnesota Sentencing Guidelines Commission proposed modification capping probation terms.

Can I submit my comment in support to this email address? Or someplace else?

Thanks for your time and assistance,

Lindsay

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pronouns: she/her