

**Minnesota Sentencing Guidelines Commission**  
**Approved Meeting Minutes**  
**August 26, 2015**

The Minnesota Sentencing Guidelines Commission (MSGC) meeting was held on August 26, 2015 in Room 225, Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155. Commission members present were Chair Justice Christopher Dietzen, Angela Champagne-From, Jeffrey Edblad, Sergeant Paul Ford, Judge Caroline Lennon, Cathryn Middlebrook, Commissioner of Corrections Tom Roy, Judge Heidi Schellhas, Yamy Vang, and Senior Judge Mark Wernick. MSGC staff members present were Executive Director Nate Reitz, and staff members Kathleen Madland, Anne Wall, and Jill Payne. Assistant Attorney General Jim Early was present.

Members of the public present were Dr. Barbara Carson, Minn. State University-Mankato; Michael Flanagan, Minn. Association of Narcotics Investigators; Emily Lefholz, Senate Judiciary Committee Administrator; Kathie Lonergan and Lisa Netzer, Minn. Department of Corrections; Andrea Palumbo, Council on Crime and Justice; Monty and Mariana Schunk; Diane and John Sleizer; and Robert Small, Minn. County Attorneys Association.

**1. Call to Order**

The Chair called the meeting to order at 2:00 p.m.

**2. Approval of Agenda**

This was on the agenda as an action item.

**Motion** made by Judge Lennon and seconded by Sgt. Ford to approve the meeting agenda.

**Motion carried.**

**3. Approval of July 22, 2015, Meeting Minutes**

This was on the agenda as an action item.

**Motion** made by Judge Schellhas and seconded by Judge Wernick to approve the meeting minutes from July 22, 2015, as amended.

**Motion carried.**

**4. Controlled Substance Crimes**

This was on the agenda as a discussion item.

The Chair called on the Executive Director, who presented slides on drug sentencing in Minnesota including the history, post-1992 work of the Commission, the current state of sentencing, and comparisons to other jurisdictions. Senior Research Analyst Jill Payne reviewed slides on regression and recidivism projects conducted by Commission staff.

The Commission reviewed its enabling legislation under Minn. Stat. § [244.09](#) and the procedural requirements of [Minn. R. ch. 3000](#), and discussed its next steps and a timeline.

**Motion** made by Mr. Edblad and seconded by Judge Schellhas to discuss at the next three Commission meetings comprehensive controlled substance sentencing reform and submit proposed policy recommendations to the Legislature in the Commission's January 2016 Report to the Legislature. The discussion would include the potential for a controlled substance kingpin statute, mandatory minimums for controlled substance offense, thresholds, severity-level rankings, border boxes, and a discussion of any cost savings in prison beds being allotted to front-end drug treatment options.

In the ensuing discussion, it was clarified that the motion would not preclude the Commission coming to consensus on action items.

**Motion carried.**

## **5. Clarify Consecutive Supervised Release Policy**

This was on the agenda as a discussion item. Commission members present received background materials. The item was tabled. There were no objections.

## **6. Director's Report**

Director Reitz reported on four items.

- a.** Director Reitz had no action to report from the August 10, 2015, Minnesota Sex Offender Program meeting convened by Federal Judge Donovan Frank.

- b. The annual meeting of the National Association of Sentencing Commissions (NASC), hosted by the Alaska Judicial Council, was held August 16<sup>th</sup> to 18<sup>th</sup>. The delegates from Minnesota's Commission were Chair Dietzen, former Chair Edblad, Executive Director Nate Reitz, and Senior Research Analyst Anne Wall. There were several interesting agenda items including: studies on incarceration, length of stay, and whether prison durations reduced recidivism. It was also reported that The Robina Institute published its *Criminal History Enhancements Sourcebook*, which looked at how different jurisdictions in the United States and the federal system calculated criminal history. Utah's criminal history calculations have changed since the publication. The sourcebook is available on the Robina Institute's website for a limited time.
- c. The Director attended a statewide opioids summit August 25, 2015. While the summit's focus was primarily therapeutic and preventive, rather than punitive, it was reported at the summit that criminal justice intervention could serve as an essential motivator for people making and meeting their treatment goals.
- d. Director Reitz was invited to attend Senator Latz's prison population taskforce on Friday, September 25, 2015. The taskforce was described as an informal, advisory group designed to provide a public discussion on issues facing the Department of Corrections.

## 7. Public Input

The Chair recognized members of the public and asked if anyone wished to speak before the Commission. Mariana Schunk, mother of murder victim Anarae Schunk spoke in favor of improving Minnesota's repeat violent offender law under Minn. Stat. 609.1095. Ms. Schunk stated that the current statute "lacks the capacity to keep serious, repeat offenders off the street and puts public safety at risk." Ms. Schunk directed the Commission to provided materials including the Minnesota Criminal History printout for Shavelle Chavez-Nelson, the suspect in Anarae's murder. In closing, Ms. Schunk stated that, "Minn. Stat. 609.1095, needs to be improved and amending it or replacing it with the proposal will enhance public safety by keeping horrific, repeat violent offenders in prison."

The Chair thanked Ms. Schunk for her courage and for coming to speak, and expressed the Commission's sorrow for her loss.

John Sleizer, a friend of the Schunk's, wished to comment and support the Schunk's proposal to improve the repeat violent felony law in Minnesota. Mr. Sleizer had five items he wished to state to "encourage change."

- 1) Minn. Bureau of Criminal Apprehension reports roughly 12,500 violent crimes per year, and about 6,250 (one-half) were cleared by arrest annually.
- 2) MSGC data reported that in 2013, there were 65 offenders who were "repeat violent offenders." This was defined as a person sentenced for 1<sup>st</sup> through 3<sup>rd</sup> degree criminal sexual conduct, 1<sup>st</sup> through 3<sup>rd</sup> degree murder, manslaughter, 1<sup>st</sup> through 3<sup>rd</sup> degree assault, aggravated robbery, or simple robbery, who had two prior qualifying offenses from the above list.
- 3) Mr. Sleizer opted that, it was reasonable to assume that, of the 6,250 violent crimes not cleared by arrest annually, some were committed by repeat violent offenders.
- 4) According to studies on the Bureau of Justice Statistics website, recidivism as measured by re-arrests within a 3-year period for violent offenders was 71.3%, where an arrest was made. Mr. Sleizer opted that the recidivism rate would be higher if arrest rates were higher.
- 5) In closing, Mr. Sleizer stated that, "repeat violent offenders really need to be stopped." He asked the Commission to please do something about Minn. Stat. Minn. Stat. § 609.1095, to prevent this from happening to another family.

The Chair thanked Mr. Sleizer for his comments.

## 8. Adjournment

**Motion** to adjourn made by Judge Schellhas and seconded by Ms. Champagne-From.

**Motion carried.**

The meeting adjourned at 4:15 p.m.