

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
November 18, 2015

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on November 18, 2015, in Room 116B of the Administration Building, 50 Sherburne Ave., St. Paul, MN 55155. Commission members present were Chair Justice Christopher Dietzen, Angela Champagne-From, Jeffrey Edblad, Judge Caroline Lennon, Cathryn Middlebrook, Commissioner of Corrections Tom Roy, Judge Heidi Schellhas, Yamy Vang, and Senior Judge Mark Wernick. Commission member Sergeant Paul Ford participated telephonically, the notice required in Minn. Stat. § [13D.015](#), subd. 5, having been posted on the MSGC web site on November 9, 2015.

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 also present.

Members of the public present were Angela Allen, Beth Blick, Rachel English, Christine Eyal, Shirley Kislevsky, and Melvin Ogarak, Jewish Community Action; Anita Alexander, Demetria Carter, Nancy Eder, Joy Marsh Stephens, Lars Negstad, and Toya Woodland, ISALAH; Carrie Athanasselis, Hennepin County; Dwayne Billups, Pilgrim Baptist Church; Prof. Barbara Carson, Minn. State University, Mankato; Rep. Jack Considine, Jr., Minn. House of Representatives; Alonzo Elem and Dontrell Flowers, MAD DADS, Inc.; Josh Esmay and Nadine Graves, Council on Crime and Justice; Jim Franklin, Minn. Sheriffs' Association; Erick Forsberg and Gloria Peck, Spirit of Hope United Methodist Church; Jody Gladis, Jeff Morris, and Eric Stiele BLR Drug Task Force; Kahlee Griffey and Lisa Netzer, Minn. Department of Corrections; Rob Hillesheim and Brian Marquart, Minn. State Assoc. of Narcotics Investigators; Kristin Lail, Minn. Department of Public Safety, Office of Justice Programs; Emily Lefholz, Senate Judiciary Committee Administrator; Phil Prokopowicz, Chief Deputy Dakota County Attorney; Brian Rosenblatt, House Research; Ben Schweigest, Hennepin County Attorney's Office; Robert Small, Minn. County Attorneys Association; Bill Sorem, The Uptake.org; and Mike Valteau, House Public Safety and Crime Prevention Policy and Finance Committee Administrator.

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 by Ms. Middlebrook and second by Ms. Vang to approve the meeting agenda.

Motion carried.

3. Approval of Meeting Minutes

This was on the agenda as an action item.

Motion by Judge Schellhas and second by Judge Wernick to approve the meeting minutes from October 28, 2015.

Motion carried.

4. Controlled Substance Crimes

This was on the agenda as a possible action item.

The following members had submitted controlled substance crimes policy proposals: Judge Wernick, Judge Lennon, Chair Dietzen, Sgt. Ford, and Commissioner of Corrections Roy.

The Chair called upon Judge Wernick to present his policy submission. Judge Wernick instead deferred to Chair Dietzen's submission, which would amend the Sentencing Guidelines to add a new § 2.D.3.a(8) (relating to mitigating factors); to add new §§ 2.D.3.b(5)(h), 2.D.3.b(5)(i), 2.D.3.b(5)(j), and 2.D.3.b(5)(k) (relating to aggravating factors); and to add a new § 4.C (Drug Offender Grid); with directions to make conforming amendments.

Motion by Chair Dietzen and second by Judge Wernick to approve the proposed modifications for public hearing.

During the ensuing discussion, a five-minute recess was taken to allow Sgt. Ford to begin participating telephonically.

Motion carried on a 7–3 roll-call vote. Voting Yes were Commissioner Champagne-From, Commissioner Lennon, Commissioner Middlebrook,

Commissioner Roy, Commissioner Schellhas, Commissioner Wernick, and Chair Dietzen. Voting No were Commissioner Edblad, Commissioner Ford, and Commissioner Vang.

At his request, the telephone call with Sgt. Ford was ended.

In light of the fact that the public hearing to consider the proposed amendments was to be scheduled for December 23, 2015, the Commission discussed the administrative rules which require the Commission to allow written materials to be submitted and recorded for a period of five calendar days after the public hearing (Minnesota Rules, part [3000.0400](#)). The Commission discussed whether this was an adequate period of time given the holiday season.

Motion by Commissioner Roy and second by Mr. Edblad to order the written comment period to be extended to a sixth calendar day after the public hearing, which would be December 29, 2015.

Motion carried.

The Commission next discussed possible legislative recommendations to include in the 2016 Report to the Legislature.

Motion by Commissioner Roy and second by Ms. Middlebrook to include in its annual report a list of legislative reforms.

A discussion ensued.

Motion withdrawn.

5. Review Draft 2016 Report to the Legislature

This was on the agenda as a discussion item.

The Commission discussed the draft 2016 Report to the Legislature. The Chair asked the Executive Director to forward an updated draft report to the Commission by December 2, 2015, to include the provisionally-approved controlled substance proposal, its estimated bed impact, racial impact, and recommendations to the Legislature about reinvesting any realized savings in community corrections and treatment. The Chair asked members to return corrections and suggestions to the Executive Director by December 15, 2015. The Commission will give final approval of the report at its meeting on December 30, 2015, and the report must be submitted by

January 15, 2016, to the committees of the Senate and the House of Representatives with jurisdiction over criminal justice policy.

6. Executive Director's Report

Executive Director Reitz reported on his presentation earlier in the day to the Prison Population Taskforce. Mr. Reitz also congratulated Judge Schellhas on her reappointment to the Commission for a four-year term which began October 15, 2015.

7. Public Input

The Chair recognized members of the public and asked if anyone wished to speak before the Commission.

Demetria Carter with ISAIAH thanked the Commission for its courage which will allow individuals to restore their dignity.

Alanzo Elem from MAD DADS, Inc., spoke about his personal experience and indicated that building a new wing in a prison was not the answer. He encouraged the discussion to move in a different direction; away from funding and time spent on building more prisons and putting people in "boxes" to one that would create more community programming and opportunities to encourage people.

Rep. Jack Considine, Jr., Member, Minnesota House of Representatives, suggested that Mr. Elem come to talk to the Prison Population Task Force. Commissioner of Corrections Roy publicly acknowledged the presence of Rep. Considine, saying that he was, in Commissioner Roy's experience on the Commission, the only Representative to attend one of the Commission's meetings.

Anita Alexander, a member of ISAIAH and a taxpayer, encouraged the Commission to look at things differently and make changes rather than continuing with the status quo of putting funding towards prison rather than treatment and alternative education. She said that the millions of dollars to fund the Minn. Department of Corrections is keeping tax payers from funding alternative programs.

The Chair thanked members of the public for attending the meeting and offering comments.

8. Adjournment

Motion to adjourn by Judge Lennon and second by Judge Wernick.

Motion carried.

The meeting was adjourned at 3:41 p.m.