

**Minnesota Sentencing Guidelines Commission**  
**Approved Meeting Minutes**  
**April 13, 2017**

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on April 13, 2017, in Room 116C of the Administration Building, 50 Sherburne Ave., St. Paul, MN 55155. Present were Commission Chair Justice (Ret.) Christopher Dietzen, Commission Vice-Chair Judge Heidi Schellhas, and Commission members Valerie Estrada, Sergeant Paul Ford, Judge Caroline Lennon, Cathryn Middlebrook, Peter Orput, Commissioner of Corrections Tom Roy, and Senior Judge Mark Wernick.

Also present were MSGC Executive Director Nate Reitz and MSGC staff members Kathleen Madland, Brien E. Oliver, Jill Payne and Anne Wall. Assistant Attorney General Jim Early was also present.

Members of the public present were Ben Johnson, House Research; and Theodora Gaïtas and Julie Matonich, Children of Incarcerated Caregivers.

**1. Call to Order**

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

**2. Approval of Agenda**

This was on the agenda as an action item.

A member asked when the issue of life sentences for juveniles in Minnesota would come back before the Commission. Chair Dietzen said that it would be on the May 11, 2017 agenda as a discussion item and possibly as an action item in June 2017.

**Motion** by Vice-Chair Schellhas and second by Ms. Estrada to approve the meeting agenda.

**Motion carried** unanimously.

**3. Approval of Meeting Minutes**

This was on the agenda as an action item.

**Motion** by Judge Lennon and second by Ms. Middlebrook to approve the meeting minutes from March 9, 2017.

**Motion carried** unanimously.

#### **4. Racial Impact Statements**

This was on the agenda as an update item.

Chair Dietzen updated the Commission on the status of the racial impact statement policy. Chair Dietzen said that he met with Commission staff at the end of March about revisions he had made to the racial impact statement policy. Chair Dietzen said that he asked staff for feedback and asked Executive Director Reitz to put the revisions into a policy format for discussion at meeting on May 11, 2017. Chair Dietzen said that the issue was no longer time-sensitive as staff indicated that the period in which it must respond to fiscal notes and racial impact statements had passed for this year's Legislative session.

#### **5. Criminal History Score – Felony Points**

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

Chair Dietzen called on Senior Research Analysis Specialist Anne Wall who reviewed a few slides from last month's presentation on criminal history: the percentage of offenders with a criminal history score of zero had dropped since 1990; the different reasons for presumptive prison sentences; and the percentage of people who were presumptive prison by race and ethnicity. Ms. Wall reviewed the four components of Minnesota's criminal history score, explaining that today's presentation would focus on felony points.

Ms. Wall reviewed the felony point policy and reported statistics on the percentage of people with felony points by race and ethnicity from 1991 to 2015; the types of felony priors (person, property, drug, felony DWI, sex offenses, and other felonies) by race and ethnicity from 1991 to 2015; the number of people with assault and violation of restraining order convictions from 2001 to 2015; the percentage of offenders with each type of prior offenses by race and ethnicity (person, property, drug, and other); and presumptive prison due to felony points over time.

Ms. Wall explained that, at future meetings, staff would like to review the custody status point and the decay policies for each section of the Guidelines and review policies from other states.

The Commission discussed the presentation and asked questions. A member asked about the progress of the Robina Institute's recidivism study. Ms. Wall said that staff could give an update at the next meeting on May 11, 2017.

Chair Dietzen said that the Commission would discuss what it would like staff to do next after the criminal history score presentations are completed.

## **6. Children of Incarcerated Caregivers**

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

Chair Dietzen welcomed Children of Incarcerated Caregivers (CIC) Board Members Theodora Gaïtas and Julie Matonich. Ms. Gaïtas said that they came before the Commission to propose an amendment to Guidelines Comment 2.D.303 that would address the case law that allowed a sentencing court to consider a defendant's status as a caregiver as a factor for a mitigated dispositional departure. Ms. Gaïtas said that, currently, there appeared to be some confusion among attorneys and judges about whether a person's status as a parent or caregiver could be considered at sentencing. Ms. Gaïtas opined that current case law holds that social factors including a defendant's status as a parent may be considered. Ms. Gaïtas further explained that the proposed amendments to the Comment were not intended to change the law, but to merely explain the holdings.

The Commission asked questions of the presenters, reviewed language proposed by CIC, and discussed the issue. Chair Dietzen put this item on the May 11, 2017 agenda as an action item and stated that it would need a public hearing if the Commission wished to pursue the amendment.

## **7. Director's Report**

Chair Dietzen called on Executive Director Reitz who gave a legislative update. Executive Director Reitz said that the House and Senate had passed different versions of the public safety omnibus bill, Senate File 803, and that the Senate's version contained no policy provisions, but that the House's version contained a number of policy provisions including three policies pertaining to the Guidelines. Executive Director Reitz said that, to resolve the differences between the two versions of S.F. 803, the Senate requested a conference committee, and that the House had not yet agreed with the Senate request. Executive Director Reitz said that the conferees would most likely be named early next week when the Legislature reconvened after its break.

## **8. Public Input**

Chair Dietzen called on members of the public present and asked if anyone wished to speak. No one came forward.

## 9. Adjournment

Before adjournment, Chair Dietzen wished to recognize Assistant Attorney General Jim Early who will retire May 2, 2017. Chair Dietzen thanked Mr. Early for his service as Counsel to the Commission for over 20 years. Mr. Early thanked Chair Dietzen.

**Motion** by Mr. Orput and second by Sgt. Ford to adjourn.

**Motion carried** unanimously.

The meeting was adjourned at 3:21 p.m.