

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
December 14, 2017

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on December 14, 2017, in G-31 of the Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd; St. Paul, MN 55155. Present were Commission Chair Justice (Ret.) Christopher Dietzen, Commission Vice-Chair Judge Heidi Schellhas, and Commission members Valerie Estrada, 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 Nicole Jaspersen, Kathleen Madland, Jill Payne and Anne Wall.

Members of the public present included Richard and Bridgett Frase, University of Minnesota Law School; Kelly Mitchell and Julia Laskorunsky, Robina Institute; Anita Alexander, ISIAAH MN; and Lisa Netzer, Minn. Department of Corrections.

Absent a quorum, Chair Dietzen started the meeting at 1:35 p.m. with a non-action item.

Robina Institute Recidivism Study – Phase 1 Findings

Dr. Julia Laskorunsky, Research Fellow, Robina Institute of Criminal Law and Criminal Justice

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

Chair Dietzen welcomed Kelly Mitchell and Dr. Julia Laskorunsky from the Robina Institute. Ms. Mitchell thanked the Commission for the opportunity to present its Phase 1 findings, and said that they would welcome the Commission's feedback on what to include in upcoming phases. Chair Dietzen then welcomed and introduced Dr. Julia Laskorunsky who is a Research Fellow with the Robina Institute.

Dr. Laskorunsky said that, although her research could not measure moral culpability, it could help the Commission determine whether Minnesota's criminal history score (CHS) fulfilled the goal of public safety. She described the main research question as: How well does the Minnesota CHS predict recidivism?

Dr. Laskorunsky described the dataset saying that she obtained MSGC Monitoring Data from 2003 which included 13,190 felony offenders and tracked them from 2004 to 2015, measuring recidivism by whether a person in the study received a new felony conviction within three years of either: being released from a jail or a workhouse (as a condition of a stayed probationary sentence); or release from a prison sentence. Dr.

Laskorunsky clarified that this was a normalized period of time that allowed each person a 3-year “window” in which to recidivate.

1. Call to Order

Recognizing that a quorum was present, Chair Dietzen called the meeting to order at 1:40 p.m.

2. Approval of Agenda

This was on the agenda as an action item.

Chair Dietzen called for a motion to amend and approve the agenda by moving item number 4 to the first position.

Motion by Judge Wernick and second by Ms. Middlebrook to approve the meeting agenda, as amended.

Motion carried unanimously.

1. Robina Institute Recidivism Study – Phase 1 Findings (Cont.)

Chair Dietzen apologized for the interruption and asked Dr. Laskorunsky to continue her presentation.

Dr. Laskorunsky said that her findings showed that recidivism increased as CHS increased, but that the relationship was not linear. She explained that this meant that there were “jumps” in the data between CHS of 0 and 1 (6.9%), and also between CHS of 5 and 6 (7.5%), and fewer “jumps” between CHS of 2, 3, and 4 (4.5%); therefore, CHS does not do as well at differentiating between CHS 2, 3, and 4 as it relates to the risk to reoffend.

Dr. Laskorunsky reported that a little over half (roughly 55%) of the population in her study had a CHS that was greater than 0; the mean rate of recidivism was 24 percent; and that people at CHS of 1 had a recidivism rate of 22.5 percent.

Dr. Laskorunsky explained that she did another kind of test on the data called AUC or “Area under the Curve” that showed Minnesota’s CHS was “moderately predictive” in determining recidivism. Dr. Laskorunsky explained what was meant by that: by using Minnesota’s CHS to predict recidivism, a person would be correct 64 percent of the time i.e., 0.64 Area under Curve Score.

Dr. Laskorunsky said that she studied each of Minnesota’s CHS components to determine the predictive value. Dr. Laskorunsky reported that the custody status point

had “little predictive value,” saying that people with a custody status point had a recidivism rate of 21 percent and people with no custody status point had a recidivism rate of 20 percent.

Dr. Laskorunsky said that there was a negative relationship between the juvenile point and recidivism—meaning that a person was less likely to recidivate if he or she had a juvenile point (19% recidivism rate) than a person without a juvenile point (25% recidivism rate). She noted that this observation was made using only the subset of people (N=5,153) who were under age 25; therefore, only those people eligible for a juvenile point were included in this particular analysis.

Dr. Laskorunsky reported that the misdemeanor point was “not very useful” in predicting recidivism. Staff noted that, in 2003, when the data were collected, the misdemeanor point was calculated much differently.

Dr. Laskorunsky reported that she observed a difference between people with no prior offense of any kind (N=4,000) and people with any prior offense (e.g., two misdemeanor units, one juvenile felony, and/or ½ point felony; N=1,732). Dr. Laskorunsky reported that people with no prior offense had a recidivism rate of 12 percent whereas people with any prior offense had a 24 percent recidivism rate.

Dr. Laskorunsky concluded that Minnesota’s CHS predicted recidivism “moderately well” but it has components that do not add to its predictive value. Dr. Laskorunsky thanked the Commission and welcomed feedback.

The Commission asked questions and discussed the item. A member asked at what point in time are people most likely to recidivate. Another member asked whether a racial impact would be part of a later phase of the project and what the plan was for publishing the results. Ms. Mitchell said that racial impact could be part of a later phase and that Robina would like to publish both in academic journals and for the general public.

Chair Dietzen thanked Dr. Laskorunsky and Ms. Mitchell.

3. Approval of Meeting Minutes

This was on the agenda as an action item. Before approving the meeting minutes, Chair Dietzen said that at its November 9, 2017 meeting, the Commission informally agreed that it would like to move up its start time to 1:30 p.m. and end time to 3:30 p.m., and that this new schedule will be informally adopted, but can be revised if necessary.

Motion by Mr. Orput and second by Ms. Estrada to approve the draft meeting minutes from November 9, 2017.

Motion carried unanimously.

4. Demographic Impact Statement Policy

This was on the agenda as a possible action item.

Chair Dietzen said that this item had been on the agenda several times and that at its last meeting, there were questions and concerns about the “Process” section, as drafted. Chair Dietzen said that he and Executive Director Reitz worked together to revise the draft so that the process would include not only the Commission Chair, but any member of the Commission who wished to review and comment on a proposed demographic impact statement.

Motion by Commissioner Roy and second by Judge Lennon to approve the Demographic Impact Statement Policy (Version 2.0).

Members discussed ways to ensure that they would not violate the Open Meeting Law by ensuring that any requests to review a proposed demographic impact statement go through the Executive Director.

Motion carried unanimously.

5. Draft 2018 Report to the Legislature

This was on the agenda as a possible action item.

A. Review of Updates to Draft

Chair Dietzen called on Executive Director Reitz who presented an updated draft of the 2018 *Report to the Legislature* dated December 14, 2017. Executive Director Reitz went through the changes requested by the Commission at its meeting on November 9, 2017.

B. Impact of the 2016 Drug Sentencing Reform Act (DSRA)

Executive Director Reitz reviewed the executive summary of the DSRA before calling on Senior Research Analysis Specialist Anne Wall who reviewed recent trends in felony drug offenders and comparisons made between people convicted of offenses before the

DSRA went into effect (“Pre-DSRA”) and people convicted of offenses after the DSRA took effect (“Post-DSRA”).

After Ms. Wall’s presentation, the Commission discussed ways to improve the report to emphasize what the goals of the DSRA were and how preliminary findings may demonstrate how these goals are being met. The Commission debated the merits of making the DSRA section its own report that could be issued to the Legislature at a later date than the 2018 *Report to the Legislature* which must be delivered to the Legislature by January 12, 2018.

Chair Dietzen requested staff revise the DSRA section based on the Commission’s feedback. Executive Director Reitz proposed emailing a draft to the Commission on December 28, 2017, and requested that suggested edits be emailed to him by January 4, 2018. Executive Director Reitz said that this would give the MSGC staff one week before the Commission’s meeting on January 11, 2018 to incorporate the edits.

Chair Dietzen then called on Senior Research Analysis Specialist Jill Payne who summarized the section of the DSRA report on Gross Misdemeanors and Stays of Adjudication.

6. Report from the Chair

This was on the agenda as a discussion item.

Chair Dietzen reported on his trip in November to the District of Columbia that was hosted by the D.C. Commission and sponsored by Minnesota’s Commission. Chair Dietzen explained that the topic was examining criminal history and that the retreat was valuable and relevant in light of Minnesota’s review and examination of the criminal history score. Chair Dietzen said that in January he will introduce the idea of soliciting ideas from members (through the Executive Director) on what areas of criminal history may need reform. Chair Dietzen said that the selected topics will be discussed in either February or March. Chair Dietzen said that he hoped that this process would help build consensus.

7. Director’s Report

Chair Dietzen called on Executive Director Reitz who reported on the following items:
1) The Peace Officer position on the Commission is still vacant; 2) Besides judicial

appointments, Commission members' terms are coterminous with the Governor; and 3) 2018 will mark the 40th Anniversary of the Minnesota Sentencing Guidelines Commission.

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

Motion by Judge Lennon and second by Vice-Chair Schellhas to adjourn.

Motion carried unanimously.

The meeting was adjourned at 3:52 p.m.