

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
March 9, 2017

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on March 9, 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 Angela Champagne-From, Valerie Estrada, Judge Caroline Lennon, Cathryn Middlebrook, Peter Orput, Commissioner of Corrections Tom Roy, Yamy Vang, and Senior Judge Mark Wernick.

Also present were MSGC Executive Director Nate Reitz and MSGC staff members Jill Payne and Anne Wall. Assistant Attorney General Jim Early was also present.

Members of the public present included Robert Small, Minn. County Attorneys Association; Lisa Netzer and Dr. Grant Duwe, Minn. Department of Corrections; Mariana and Monty Schunk; Amy Blee-Dilley; and Ed Byrne.

1. Call to Order

Chair Dietzen called the meeting to order at 2:01 p.m.

2. Approval of Agenda

This was on the agenda as an action item.

Motion by Mr. Orput and second by Ms. Vang to approve the meeting agenda.

Motion carried unanimously.

3. Approval of Meeting Minutes

This was on the agenda as an action item.

Chair Dietzen recognized Ms. Middlebrook who corrected a typographical error on Page 5, Line 4: the words “that just those” were stricken from the minutes.

Motion by Judge Lennon and seconded to approve the meeting minutes from January 12, 2017, as corrected.

Motion carried unanimously.

4. Repeat Violent Offender Research Update

This was on the agenda as a discussion item.

Chair Dietzen called on Commissioner of Corrections Roy who introduced Dr. Grant Duwe who is Director of Research at MN-DOC.

Dr. Duwe gave a presentation and explained that he conducted a cost-benefit analysis on repeat violent offenders using the MN-DOC MnSTARR 2.0 data. Dr. Duwe said that MnSTARR is a risk assessment tool, and that the database contains data on nearly 40,000 offenders released from prison between 2006 and 2011.

Dr. Duwe explained that, for the analysis, a “severe violent crime” (SVC) was defined as murder; manslaughter; 1st and 2nd degree assaults; 1st and 2nd degree aggravated robberies; and drive-by shooting. Dr. Duwe gave an overview of selective incapacitation (SI). He also explained the assumptions of the study: to increase prison time for repeat SVO’s by 12 months; 24 months; and 36 months. Dr. Duwe said that the results were: a 2.1 percent SVC recidivism rate for the 12-month scenario; a 6 percent SVC recidivism rate for the 24-month scenario; and an 8.9 percent SVC recidivism rate for the 36-month scenario. Dr. Duwe provided the Commission with “what works” information in his written materials describing evidence-based practices research.

The Commission asked questions of Dr. Duwe and discussed the repeat violent offender issue. A member asked about how the study took into account the cost to victims.

Chair Dietzen said that this item would be brought back before the Commission and asked Vice-Chair Schellhas and Ms. Champagne-From to present at a future meeting. Commissioner Roy suggested that Lydia Newlin, Victim Assistance & Restorative Justice Program Director at MN-DOC could be of assistance to the Commission.

5. Life Sentences for Juveniles in Minnesota

This was on the agenda as a discussion item.

Chair Dietzen reminded members that, at the Commission meeting January 12, 2017, the Commission heard from the defense with a presentation from Associate Prof. Perry Moriearty, University of Minnesota Law School; and Leslie Rosenberg, Assistant State Appellate Public Defender.

Chair Dietzen said that the prosecutors would be given up to 30 minutes at the April 13, 2017, meeting to address the issue of life sentences for juveniles in Minnesota.

6. Guidelines Implications of *State v. Haywood*, 886 N.W.2d 845 (Minn. 2016)

This was on the agenda as a discussion item. Chair Dietzen reminded members that, at the Commission meeting on January 12, 2017, there was a vote in which Commission members would discuss the issue with colleagues and report back as cases developed.

The Commission discussed the issue and a member noted that the number of post-conviction cases appeared to be on the decline. Another member noted that there appeared to be cooperation among parties, and that matters related to this issue were not being contested.

Chair Dietzen took the item off the Commission's agenda.

7. Review of Revised Racial Impact Statement Policy

This was on the agenda as a discussion item.

Chair Dietzen called on Executive Director Reitz who reminded the Commission that, at its January 12, 2017, meeting, it requested he consult with the Governor's Diversity and Inclusion Council to ensure that the Commission's policy is a good equity-strategy fit. Director Reitz said that he met with Deputy Commissioner Rowzat Shipchandler and Scott Beutel from the Minn. Department of Human Rights on February 21, 2017, to discuss the draft racial-impact statement policy. Director Reitz said that, as a result of the meeting, the draft policy included in the Commission's materials was further revised. Director Reitz provided the Commission with related meeting materials: 1) the existing policy that was dated April 9, 2015; 2) the draft policy; 3) an example of a racial impact statement using the existing policy; and 4) an example of a racial impact statement using the draft policy.

The Commission discussed the history of racial impact statements, the existing policy, and possible revisions.

Motion by Vice-Chair Schellhas and second by Commissioner Roy to continue to have staff operate under the existing policy from April 9, 2015, until further notice.

Motion carried unanimously.

8. Criminal History Score Review and Robina Institute Update

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

Chair Dietzen called on Executive Director Reitz, who reviewed background slides on the role of criminal history in punishment, and the use of criminal history in the prison disposition decision.

Senior Research Analysis Specialist Anne Wall went on to explain the goals and progress that the Commission has made in reviewing criminal history policies. Ms. Wall explained that average criminal history scores have grown since 1990 while the percentage of people with Criminal History Scores 0 since 1990 has dropped. Ms. Wall explained the different reasons for presumptive prison sentences and that the percentage of people who were presumptive prison differed by race and ethnicity. Ms. Wall reviewed the policies for a juvenile point and for a misdemeanor/gross misdemeanor point.

9. Director's Report

Chair Dietzen called on Executive Director Reitz who reported on his testimony before the House and Senate criminal-law committees, the number of fiscal notes prepared by staff, and the progress of bills related to the Sentencing Guidelines.

Director Reitz said that tomorrow, Friday, March 10, 2017, was the deadline in which committees must act favorably on bills in the house of origin.

Director Reitz said that House File 33, a bill requiring legislative approval for sentencing guidelines modification, passed out of the House Public Safety and Security Policy and Finance Committee on Tuesday, March 7, 2017; and passed out of the House Government Operations and Elections Policy Committee today, Thursday, March 10, 2017.

Director Reitz said that House File 1572, a bill eliminating the use of stays of adjudication and stays of imposition in criminal sexual conduct cases, and directing the

sentencing guidelines to modify its sex offender grid, had been laid over for possible inclusion in the Omnibus Public Safety and Security Policy and Finance bill.

10. Public Input

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

11. Adjournment

Motion by Judge Wernick and second by Ms. Estrada to adjourn.

Motion carried unanimously.

The meeting was adjourned at 4:02 p.m.