

Approved Meeting Minutes

March 8, 2018

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on March 8, 2018, in Centennial Office Building, Lady Slipper Conference Room, 658 Cedar St., St. Paul, MN 55155. Present were Commission Chair Justice (Ret.) Christopher Dietzen, Vice-Chair Judge Heidi Schellhas, and Commission members Angela Champagne-From, Judge Caroline Lennon, Cathryn Middlebrook, Sergeant Salim Omari, 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 Nicole Jaspersen, Kathleen Madland, Jill Payne and Anne Wall.

Members of the public present were Kelly Mitchell, University of Minnesota, Robina Institute of Criminal Law and Criminal Justice; Lisa Netzer, Minn. Department of Corrections; and Max Page, Hennepin County Attorney's Office.

1. Call to Order

Chair Dietzen called the meeting to order at 1:30 p.m.

2. Welcome to New Member and Introductions

Chair Dietzen welcomed Saint Paul Police Sergeant Salim Omari to the Commission. Chair Dietzen asked Sgt. Omari to introduce himself. Sgt. Omari thanked Chair Dietzen and said that he was originally from South Minneapolis, graduated from St. Thomas University with a degree in Criminal Justice, began his career in the City of Bloomington, and is now with the City of St. Paul as a supervisor at the Eastern District. Members of the Commission welcomed Sgt. Omari.

3. Approval of Agenda

This was on the agenda as an action item.

Motion by Judge Wernick and second by Mr. Orput to approve the meeting agenda.

Motion carried unanimously.

4. Approval of Meeting Minutes

This was on the agenda as an action item.

Motion by Mr. Orput and second by Judge Wernick to approve the meeting minutes from January 11, 2018.

Motion carried unanimously.

5. Criminal History – Potential Areas of Reform

This was on the agenda as a discussion item.

Chair Dietzen said that he wished to introduce the two areas that may be in need of reform based on whether there was consensus from members: the Custody Status Point and the period in which prior convictions decay.

a. Review – Summary of Criminal History Overview

Senior Research Analysis Specialist Anne Wall presented a *Summary of Criminal History Overview Slides*. Ms. Wall reviewed Minnesota's four criminal history score (CHS) components: Custody Status Point, Juvenile Point, Misdemeanor/Gross Misdemeanor Point, and Felony Point. Ms. Wall described the rise in the average CHS, and the fall in the percentage of people with a CHS of zero, from 1991 to 2013. Regarding the Custody Status Point, Ms. Wall described the rise in the percentage of people with a Custody Status Point from 1991 to 2014; the racial composition of people with a Custody Status Point; and the fact that the most common Custody Status Point "status" was probation (including within original probationary length). With respect to the decay period of prior felonies, Ms. Wall explained that almost half (48.8%) had disposition dates within five years of offenders' current offense dates.

b., c., & d. Custody Status Point, Decay of Prior Convictions, and Other (MSGC Staff Issue Paper)

Executive Director Reitz presented *Staff Issue Paper: Criminal History – Potential Areas of Reform – Focus on Custody Status Point and Decay Periods*. Executive Director Reitz reviewed the background, policies, data, questions for the Commission, possible reform options, and pros and cons.

d. (Continued) Other (Member Suggestions)

Chair Dietzen called on Vice-Chair Schellhas who asked that the repeat violent offender issue be discussed in conjunction with criminal history reform.

Chair Dietzen called on Director Reitz who directed the Commission to a printed e-mail in their meeting folders from Mariana Schunk dated March 5, 2018, encouraging a member to move the Severe Violent Offender Proposal forward during this agenda item.

Chair Dietzen asked whether there was any objection to discussing repeat violent offenders during the discussion of criminal history reform. There were no objections.

The Commission discussed possible modifications to the custody status point and decay policies including the pros and cons, and whether there was consensus if the Commission were to change the policies. The Commission discussed geographical variation in probation durations, voluntary probationary guidelines, accountability, different policies based on offense type, and the date at which the decay period should start.

There was concern about not making the Guidelines more complicated than they already were for practitioners.

There was objection to modifying the decay period to begin at the date of sentence for offenders sentenced to prison if it meant that a prisoner's sentence may decay during the term of imprisonment or shortly after release from prison. The Commission discussed having a different decay start date for probationers vs. prisoners.

After determining that there were no objections, Chair Dietzen asked staff to research the following modifications to the Custody Status Point and decay period:

- 1) Revert to pre-2001 policy in which CSP for probation counts until discharge; i.e., an offender was not eligible if he or she was successfully discharged from probation.
- 2) Abolish Custody Status Point.
- 3) Limit a Custody Status Point to current offenses ranked at severity levels 8-11 on the Standard Grid, A-C, & H on the Sex Offender Grid, D8 & D9 on the Drug Offender Grid, attempted murder in the first degree, or a weapon offense under Minn. Stat. § 609.11.
- 4) Limit the length of time a Custody Status Point applies based on Severity Level. For example, severity levels 1-2 eligible for 2 years, 3-5 eligible for 3 years, 6-8 eligible for 5 years, etc.
- 5) Limit weight of the Custody Status Point to 0.5 point for offenders whose custody status derives from a prior offense that has a weight of less than 1.0 point or is a misdemeanor or gross misdemeanor.
- 6) Start decay period at date of sentence for probationers and date of discharge for prisoners.
- 7) Change decay period for prior felonies to 10 years and 5 years for misdemeanors and gross misdemeanors.

6. Executive Director's Report and Legislative Update

This was on the agenda as an information item.

Chair Dietzen called on Director Reitz who reported on the following items: 1) He and Chair Dietzen presented the Commission's 2018 Report to the Legislature to the House Public Safety Policy and Finance Committee on March 6, 2018; 2) A number of crime bills for which staff is required to prepare fiscal notes have been introduced; 3) April 5, 2018, will mark the 40th Anniversary of the Minnesota Sentencing Guidelines Commission's enabling legislation; and 4) Important upcoming meeting dates, for which the necessity of a quorum is anticipated, are June 7 and July 26, 2018.

7. Public Input

Chair Dietzen called on members of the public present and asked if anyone wished to speak.

Kelly Mitchell, Executive Director of the University of Minnesota's Robina Institute of Criminal Law and Criminal Justice, came forward and encouraged the Commission to look at geographic disparities in lengths of probation. Ms. Mitchell said that, in her research, she looked at the frequency or mode of probation rather than the averages and found disparities statewide. Ms. Mitchell thanked the Commission for the opportunity to speak before them.

Chair Dietzen thanked Ms. Mitchell and asked if anyone else wished to speak. No other members of the public came forward.

8. Adjournment

Motion by Vice-Chair Schellhas and second by Ms. Middlebrook to adjourn.

Motion carried unanimously.

The meeting was adjourned at 3:19 p.m.