

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
July 27, 2016

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on July 27, 2016, in Room 225 of the Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155. Present were Commission Chair Justice Christopher Dietzen, and Commission members Angela Champagne-From, Jeff Edblad, Sergeant Paul Ford, Judge Caroline Lennon, Cathryn Middlebrook, Yamy Vang, and Senior Judge Mark Wernick.

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

Members of the public present were Anita Alexander, ISALAH MN; Lisa Netzer, Minn. Department of Corrections; Monty Schunk and Mariana Schunk; Diane Sleizer and John Sleizer; and Minister Toya Woodland and Jerome Woodland, Christ Temple Apostolic Church.

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.

Motion by Mr. Edblad and second by Judge Lennon to approve the meeting agenda.

Motion carried unanimously.

3. Approval of Draft Meeting Minutes from June 8, 2016

This was on the agenda as an action item.

Motion by Judge Lennon and second by Judge Wernick to approve the meeting minutes from June 8, 2016.

Motion carried unanimously.

4. Review of Record, Public Hearing of July 20, 2016

This was on the agenda as a discussion item. Chair Dietzen called on Executive Director Reitz, who reviewed the public hearing record. Director Reitz supplied the following information to the Commission:

The notice of public hearing was published in the State Register on June 20, 2016, and the contents of the proposed modifications were posted on the Commission's website at the same time. The public hearing was held on July 20, 2016, in Room 1100 of the Minnesota Senate Building, 95 University Ave. W., St. Paul, MN 55155; and there were no members of the public who wished to address the Commission. The public hearing record remained open for a total of five days—through July 25, 2016—and the Commission received no written comments.

5. Approve or Reject Proposed Modifications to the Sentencing Guidelines and Commentary

This was on the agenda as an action item. Chair Dietzen called on Executive Director Reitz to present the issues.

A. Legislative Amendments to Controlled Substance Offenses

The Commission was directed to section A of the proposed modifications to the sentencing guidelines and commentary and errata sheets 1 through 3, in the meeting materials.

Motion by Judge Lennon and second by Ms. Vang to adopt the proposal to modify the Minnesota Sentencing Guidelines to add § 4.C (Drug Offender Grid) and comments 2.C.11 and 2.E.05; and to make modifications in §§ 1.B.13, 1.B.17, 2.B.1.a, 2.B.1.b, 2.C.1, 2.C.3.c, 2.E.2.c, 5.A, 5.B, and 6; comments 2.C.10 and 2.E.06 (currently numbered 2.E.05); and Appendix 1.

Motion carried unanimously.

B. Legislative Amendments to Non-Controlled Substance Offenses

The Commission was directed to section B of the proposed modifications to the sentencing guidelines and commentary and errata sheets 4 and 5, in the meeting materials.

Motion by Judge Wernick and second by Ms. Champagne-From to adopt the proposal to modify the Minnesota Sentencing Guidelines to add new §§ 2.G.11 and 2.G.12; and to make modifications in §§ 2.B.3.g, 5.A, 5.B, and 6; comments 2.B.304 and 2.D.308; and Appendix 1.

Motion carried unanimously.

The Commission was directed to Errata Sheet 7, which addressed a staff addendum that made a proposal to add an offense to the permissive consecutive offense list in Guidelines § 6. The staff addendum was published in the State Register on June 20, 2016, as part of the public hearing notice, but was not first considered by the Commission.

Motion by Judge Wernick and second by Ms. Middlebrook to reject the staff addendum because it did not comply with the procedural rules of the Commission.

Motion carried unanimously.

The Commission was directed to Errata Sheet 6, which addressed the Commission's proposal to assign a Severity Level 3 to the use of automated sales suppression devices under Minn. Stat. § 609.858.

Motion by Judge Lennon and second by Mr. Edblad to table the proposal until there was action on a bill substantially identical, irrespective of effective date, to art. 11, sec. 10 of House File 848, 4th Engrossment, 89th Minn. Legislature.

Motion carried unanimously.

C. Non-Legislative Modifications

The Commission was directed to section C of the proposed modifications to the sentencing guidelines and commentary, in the meeting materials. There were no errata sheets that pertained to this section.

Motion by Mr. Edblad and second by Judge Lennon to adopt the proposal to modify Minnesota Sentencing Guidelines to make modifications in §§ 2.B.2.b, 2.B.5.b, 5.A, 5.B, and 8; and Appendix 2; to renumber Minnesota Sentencing Guidelines § 2.G.11 as § 2.G.13, effective August 1, 2016; and to make

modifications in Minnesota Sentencing Guidelines § 2.G.13 (currently numbered § 2.G.11), effective August 1, 2017.

Motion carried unanimously.

6. Work Plan Discussion

This was on the agenda as a discussion item.

A. Criminal History Score Overview, Part 2: Misdemeanor Point

Chair Dietzen called on Senior Research Analysis Specialist Anne Wall to present.

Ms. Wall presented a history of the Commission's misdemeanor and gross misdemeanor criminal history policies highlighting growth over time, policy changes, and percentage of offenders with a misdemeanor/gross misdemeanor point by race/ethnicity.

The Commission asked questions and discussed the issue.

B. Repeat Violent Offenders

Chair Dietzen welcomed Mariana Schunk, mother of murder victim Anarae Schunk. Ms. Schunk spoke in favor of amending Minnesota's repeat violent offender law under Minn. Stat. § 609.1095, to include a mandatory minimum 25-year sentence for a person who has two prior felony convictions, one defined as a "violent crime," and is convicted of a third offense, that is defined as a "violent crime."

John Sleizer, a friend of the Schunk family spoke in support of the Schunk's proposal. Mr. Sleizer stated that in 2013, the Minn. Bureau of Criminal Apprehension reported a 50 percent clearance rate by arrest of violent crimes. Mr. Sleizer referenced a 2015 data request prepared by MSGC that reported, that, 65 offenders sentenced in 2013 were "repeat violent offenders;" defined as a person sentenced for 1st through 3rd degree criminal sexual conduct, 1st through 3rd degree murder, manslaughter, 1st through 3rd degree assault, aggravated robbery, or simple robbery, who had two prior qualifying offenses from the above list. Mr. Sleizer also report that, according to studies on the Bureau of Justice Statistics website, recidivism, as measured by re-arrests within a 3-year period, for violent offenders was 65 to 70 percent.

Chair Dietzen asked members how they wished to proceed with this item. A discussion ensued. Chair Dietzen put the item on the September agenda for

discussion and asked staff to prepare a literature review, an impact analysis, and draft legislation.

Chair Dietzen thanked Ms. Schunk and Mr. Sleizer for their presentation. Ms. Champagne-From wished to personally thank Ms. Schunk for her courage.

C. Other Work Plan Discussion

There was no further discussion.

7. Executive Director's Report

Executive Director Reitz reported on four items: 1) a posted job announcement for a new Research Analyst position to do research as directed in 2016 Minn. Session Laws, Ch. 160, Sec. 13) the publishing of the Sentencing Guidelines and Commentary, effective August 1, 2016; 3) the National Association of Sentencing Commissions conference to be held in Salt Lake City, Utah, August 7th to August 9th; and 4) the vacant probation officer position on the Commission.

8. Public Input

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

Anita Alexander from ISAIAH MN spoke. Ms. Alexander thanked the Commission for its work on drug sentencing reform and stated that ISAIAH MN was in favor of going further with drug reform including retroactivity.

9. Adjournment

Motion to adjourn by Judge Lennon.

Motion carried unanimously.

The meeting was adjourned at 3:51 p.m.