

Approved Meeting Minutes

March 7, 2024

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on March 7, 2024, in the Afton Room at the Department of Corrections headquarters, 1450 Energy Park Drive, Saint Paul, MN 55108; and by telephone and/or electronically.

Present in person were Chair Kelly Lyn Mitchell and Vice-Chair Michelle A. Larkin; and Commission members Christopher E. Crutchfield, Prof. Richard S. Frase, Cathryn Middlebrook, Justice Gordon L. Moore, III, Brooke Morath, and Latonya Reeves. Also present in person were MSGC Executive Director Nate Reitz; and MSGC staff members Leah Bower, Linda McBrayer, and Jill Payne; and members of the public Kevin Reitz, Aaron Sojourner, and Chris Uggen from the University of Minnesota.

Present by telephone and/or electronically were Judge David Knutson, Kyra Ladd, and Surya Saxena, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on February 9, 2024. Also present by telephone and/or electronically were MSGC staff member Kathleen Madland; and members of the public Shamsa Dhayow and Charlie Sellew, Management Analysis and Development; Julia Laskorunsky, Robina Institute of Criminal Law and Criminal Justice; Aubrey Giesen, Kevin Hill, Matt Majovski, and Elizabeth Ruhland.

1. Call to Order and Roll Call

Chair Mitchell called the meeting to order at 1:01 p.m.

Director Reitz called the roll. Present were Chair Mitchell, Vice-Chair Larkin, and commissioners Crutchfield, Frase, Knutson, Ladd, Middlebrook, Moore, Morath, Reeves, and Saxena. Eleven members were present. Two members were absent. A quorum was present.

2. Approval of Draft Meeting Agenda (Action)

This was on the agenda as an action item.

Motion by Vice-Chair Larkin and second by Commissioner Reeves to approve the meeting agenda.

Motion carried unanimously on an 11–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and commissioners Crutchfield, Frase, Knutson, Ladd, Middlebrook, Moore, Morath, Reeves, and Saxena.

3. Approval of Draft Meeting Minutes from February 8, 2024 (Action)

This was on the agenda as an action item.

Motion by Commissioner Middlebrook and second by Vice-Chair Larkin to approve the February 8, 2024, draft meeting minutes.

Motion carried unanimously on a 10–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and commissioners Crutchfield, Frase, Knutson, Ladd, Middlebrook, Moore, Morath, and Saxena.

Commissioner Reeves abstained.

4. Comprehensive Review Public Engagement Planning Update (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Shamsa Dhayow and Charlie Sellev from Minnesota’s Management Analysis and Development (MAD) division of Management and Budget who presented a memorandum addressed to the Commission entitled “Plan for comprehensive review engagement.” The memo gave background and discussed the approach for MAD’s public engagement plan including input sessions for people with direct familiarity with the sentencing guidelines and people without direct familiarity. MAD discussed its objectives for hosting approximately 30 engagement sessions across the state from March to June of 2024, both in person and online.

The Commission discussed the plan and MAD’s approach. It was suggested that MAD add academics to the list of members of the public to engage because they may have insights into MAD’s research question for, “What would make sentencing more fair and just?”

MAD discussed its timeline after June saying it will summarize and synthesize key concerns and confer with the UMN research team in July and August; present its findings and design follow-up engagement in September; commence follow-up engagement from October to December; and present its final report early in 2025.

5. University of Minnesota Research Team Update (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on University of Minnesota researcher Professor Chris Uggen who presented slides entitled, “Update on MSGC and UMN Research Partnership,” and began by recapping what the University of Minnesota research team had outlined as its “menu” of research and determining each research question’s degree of difficulty. The Commission will direct the focus and the research team will direct the research. The deliverables for the project will be policy briefs, presentations, and long reports including an interim report to Arnold Ventures. The objectives would be to have useful, actionable information for Commission. The major themes were synthesized and put into the following categories: specific sentencing changes, public safety, probation, and “big open questions.”

The Commission discussed each researcher area. The Commission asked questions and discussed items including: the effectiveness of incarceration; the population of those in Minnesota’s prisons; the pandemic effect; departures and plea bargaining; Minnesota’s low incarceration rate vs. its high probation rate; not making assumptions about how people reach prison; sanctions and consequences other than probation; revocations; dosage probation; actionable changes that can be made by the Commission vs recommendations to the Legislature.

Chair Mitchell suggested that Dr. Grant Duwe, the Director of Research and Evaluation for the Department of Corrections, could speak to the Commission on the questions related to who is in prison.

6. The Sentencing Guidelines in Operation – Two Sample Cases (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell introduced the item and said that this would be an opportunity to directly engage with the Guidelines by examining sample cases. Director Reitz called on staff members Leah Bower and Linda McBryer who presented the first of two sample, actual cases (with pseudonyms). In the first case, John Doe had been convicted of controlled substance crime in the fifth-degree in St. Louis County. The case narrative was presented based on the probable cause statement, and the sentencing worksheet—including the criminal history and presumptive sentence—was explained. Lastly, the actual sentence was presented.

The Commission asked questions and discussed the first sample case. Chair Mitchell thanked Ms. McBryer and Ms. Bower and asked, in the interest of time, if the second sample case could be presented at the April meeting.

7. Next Step in the Comprehensive Review – Sentencing Guidelines' Purposes and Principles? (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz to discuss the Commission’s timeline and next steps for the comprehensive review while MAD does its public engagement and the UMN continues its research. Director Reitz proposed that the Commission begin with the purposes and principles of the Guidelines. Director Reitz presented “Planning Phase 1 of the Comprehensive Review – Commission/Research Track” from September 28, 2023, which describes five sentencing “blocks” to use to help inform the Commission’s next steps for the comprehensive review. The blocks are: Block A, Principles; Block B, Weighing the Defendant’s Past; Block C, Weighing the Offense’s Severity and Establishing a Presumptive Sentence; Block D, Sentencing Multiple Offenses and Modifying Sentences; and Block E, Departures.

The Commission asked questions and discussed items and areas of the Guidelines to review that do not need immediate research or amount to legal “glitches” in the Guidelines that could be reviewed while MAD engages with the public and the UMN collects data.

Chair Mitchell asked whether the purposes and principles was a good place to start for the April Commission meeting. There was no objection. Chair Mitchell suggested that Professor Kevin Reitz from the University of Minnesota could inform this conversation by presenting information from other states and from the Model Penal Code on Sentencing.

8. Executive Director's Report (Discussion)

Director Reitz reported on three items:

- MSGC staff is reevaluating its practices around synthesizing sentencing worksheets that are not created by probation agencies. Beginning with 2024 data, MSGC staff will rely on probation agencies to complete their sentencing worksheets. MSGC staff will report those not completed by probation as “missing” data. Previously, MSGC staff would create and submit these missing worksheets as a courtesy to probation which, staff believes, could lead to “polluted” data.

The Commission asked to be briefed on this topic more fully. Chair Mitchell asked to connect with Director Reitz after the meeting so that they can arrange to go before the probation organizations to ask for assistance to facilitate this new process.

- Director Reitz called on Research Analysis Supervisor Leah Bower who was happy to report that three new research staff have been hired and will begin soon: Devonte Roache, Matthew Hlina, and Andrew Gonzalez. Devonte and Matthew will start next Wednesday, March 13. Matthew's position is temporary and will focus mostly on the comprehensive review. Andrew will begin May 15, due to relocation logistics.
- Director Reitz reported that there have been roughly 12 unique legislative bills in which staff has been asked to prepare a fiscal note. Some of these will be passed into law and the Commission will then need to take action. Two bills of interest: HF3555 which reforms predatory offender registration; and HF3366 which adds violating protective orders to the list of offenses prohibiting possession of a firearm. The latter of the two bills will likely meet the threshold for a demographic impact statement.

9. Public Input

Chair Mitchell asked if there were members of the public who wished to speak.

No public members wished to speak.

10. Adjournment

Chair Mitchell adjourned the meeting at 3:32 p.m., without objection.