

Approved Meeting Minutes

December 16, 2021

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on December 16, 2021, in the Minnesota State Capitol Building, Room G3, 75 Dr. Martin Luther King, Jr. Blvd., St. Paul, MN 55155; and by telephone and/or electronically.

Present in person were Commission Chair Kelly Lyn Mitchell and Commission members Cathryn Middlebrook and Brooke Morath; and MSGC Executive Director Nate Reitz and staff members Shanna Mohabir and Jill Payne. No members of the public were present in person.

Present by telephone and/or electronically were Vice-Chair Valerie Estrada and members Brooke Blakey, Tonja Honsey, Judge David Knutson, Kyra Ladd, Judge Michelle Larkin, and Justice Gordon L. Moore, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on November 15, 2021. Also present by telephone and/or electronically were MSGC staff members Linda McBrayer and Anne Wall, and 23 members of the public including Alicia Neumann; Ashley Halbach; Benjamin Johnson, House Research; Carissa Palm, Dana Ferguson; Dana Koletar; Elizabeth Ruhland; James Knutson; Jeffrey Potts; Jennifer Mead; John Simon; Julie Quist; Kaye Larkin; Kelly Janssen; Marie Olson; Mickey Cook; Peggy Jensen; Sonny Wilson; and Winnie Martin.

1. Call to Order & Roll Call

Chair Mitchell called the meeting to order at 4:23 p.m., about ten minutes after adjournment of a separate public hearing held on a proposal to amend the Guidelines.

Chair Mitchell asked Director Reitz to call the roll.

Present were Chair Mitchell, Vice-Chair Estrada, and commissioners Blakey, Honsey, Knutson, Ladd, Larkin, Middlebrook, Moore, and Morath. Ten members were present. One member was absent. A quorum was present.

2. Approval of Agenda

This was on the agenda as an action item.

Motion by Commissioner Knutson and second by Commissioner Middlebrook to approve the meeting agenda.

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

Voting “Yes” were Chair Mitchell, Vice-Chair Estrada, and commissioners Blakey, Honsey, Knutson, Ladd, Larkin, Middlebrook, Moore, and Morath.

3. Approval of Draft Meeting Minutes

This was on the agenda as an action item.

Motion by Commissioner Middlebrook and second by Vice-Chair Estrada to approve the meeting minutes from November 4, 2021.

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

Voting “Yes” were Chair Mitchell, Vice-Chair Estrada, and commissioners Blakey, Honsey, Knutson, Ladd, Larkin, Middlebrook, Moore, and Morath.

4. Review Draft 2022 Report to the Legislature (Discussion)

Chair Mitchell called on Director Reitz who presented an overview of the December 9, 2021, staff draft of the 2022 Report to the Legislature—including an updated “Introduction” section dated December 15, 2021, which contained Minnesota’s imprisonment rate relative to all other states updated for 2020. The Commission discussed the report and asked questions including questions about the timeline and process for submitting changes to the report. At this time, Director Reitz asked permission to move on to agenda item 5.B because it was relevant to the Commission’s discussion of the report and about its consideration of the proposal to repeal the custody status point policy.

5. Executive Director’s Report

Director Reitz reported on four items.

A. 2022 & 2023 Meeting Calendars

Director Reitz presented the 2022 and 2023 meeting calendars, both of which were based on a meeting formula previously approved by the Commission. Director Reitz said that the meeting location, after the January 13, 2022 meeting, was tentative because the regular meeting room in the Centennial Office Building remained closed due to COVID-19. Director Reitz said that, unless there were objections, the 2022 and 2023 meeting calendars would be considered approved.

B. 2022 Meeting Logistics

Director Reitz first presented a letter dated January 8, 2020, from Deputy Attorney General David Voigt. In that letter, Mr. Voigt had responded to two questions posed by Director Reitz on behalf of the Commission. The pertinent question was related to the extent to which a proposal before the Commission could be changed based on information received at the public hearing. Director Reitz displayed the last two paragraphs of the letter under “Public Hearing” and paraphrased a few “tests” articulated therein that the Commission may wish to consider for its vote at the January 13

meeting: Does the revision create a substantially different proposal? Does the revision change the nature of, or substantially modify, the original proposal? Does the revision reasonably relate to the concerns voiced at the public hearing?

Director Reitz next presented the Commission's approved meeting rules from May 7, 2020, and displayed "Rule 2. First Reading Rule" for the Commission. Director Reitz summarized: a motion to amend the Guidelines is out of order unless the members were given at least seven days' notice before the meeting, and the Commission had discussed the modifications, or a similar or prior version, at one of the previous two Commission meetings.

In light of the letter and the meeting rules, Director Reitz asked members to please submit any proposal revisions or proposed changes to the Report to the Legislature to him by Wednesday, January 5, for distribution to the entire Commission on January 6, which is one week before the Commission meets on January 13, 2022.

One member observed that this issue was known about since January 2021, and this was a tight schedule that, going forward, could be avoided if the Commission managed its time better. Chair Mitchell offered perspective saying that the Commission is obligated to publish guidelines in August and report to the Legislature in January of every year and that the Commission spends its summers responding to the Legislature's work, and that this year, in particular, there was no time to talk policy over the summer. Chair Mitchell suggested that the Commission may want to suggest that the Legislature look at changing the effective date of the Guidelines so that the Commission could hold one public hearing per year – in December.

C. Statements of Economic Interest – Due in January

Director Reitz reminded members that their annual economic interest statements are due at the end of January, and that they should be receiving a letter from the Minnesota Campaign Finance and Public Disclosure Board.

D. New Research Analyst

Director Reitz introduced Research Analyst Shanna Mohabir, who has been with the MSGC staff since mid-November.

6. Public input

Chair Mitchell asked if members of the public present by telephone and/or electronically wished to speak. Marie Olson, a public member, expressed confusion and disappointment after listening to the Commission's discussion about their process asking if it was not going to look at alternatives to the custody status point proposal due to its lack of time management. Chair Mitchell clarified that the Commission had been studying the topic since the fall and that today's public hearing (which proceeded the Commission meeting) was held in order to take public comments on the proposal for the Commission to consider before it makes its final decision. Chair Mitchell thanked Marie Olson for speaking up. Chair Mitchell asked if anyone else wished to speak. No one else asked to be recognized.

7. Adjournment

The Chair adjourned the meeting at 5:15 p.m., without objection.