

Approved Meeting Minutes

January 12, 2023

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on January 12, 2023, in the Afton Room at the Department of Corrections, 1450 Energy Park Drive, Saint Paul, MN 55108; and by telephone and/or electronically.

Present in person were Chair Kelly Lyn Mitchell, and Commission members Cathryn Middlebrook, Brooke Morath, Judge Michelle A. Larkin, Kyra Ladd, and Justice Gordon L. Moore, III. MSGC Executive Director Nate Reitz and staff members Shanna Mohabir and Jill Payne were also present in person. No members of the public were present in person.

Present by telephone and/or electronically were Commission members Vice-Chair Valerie Estrada, Tonja Honsey, Officer Mohamoud Ibrahim, Judge David Knutson and Commissioner of Corrections Paul Schnell the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on December 16, 2022. Also present by telephone and/or electronically were MSGC staff members Kathleen Madland, Linda McBayer, and Anne Wall; and members of the public including Matt Majovski, Elizabeth Ruhland, Jacqueline Williams, Kareena Trauger, and Mena Muldoon.

1. Call to Order and Roll Call

Chair Mitchell called the meeting to order at 1:03 p.m.

Director Reitz called the roll. Present were Chair Mitchell, Vice-Chair Estrada, and commissioners Honsey, Ibrahim, Knutson, Ladd, Larkin, Middlebrook, Moore, and Morath. Ten members were present, one member absent. A quorum was present.

2. Approval of Draft Meeting Agenda (Action)

This was on the agenda as an action item.

Motion by Commissioner Larkin and second by Commissioner Ladd 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 Honsey, Ibrahim, Knutson, Ladd, Larkin, Middlebrook, Moore, and Morath.

3. Approval of Draft Meeting Minutes from December 15, 2022 (Action)

This was on the agenda as an action item.

Commissioner Schnell joined the meeting electronically at 1:06 p.m.

Motion by Commissioner Middlebrook and second by Larkin to approve the December 15, 2022, draft meeting minutes.

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

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

4. Review of Public Record (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz who reviewed the record of the public hearing, as follows:

- On Monday, November 14, 2022, the notice of public hearing was published in the State Register (Volume 47, No. 20).
- By the following day, the contents of the proposed modifications were posted on the Commission’s website and an e-mail notice of public hearing was sent to persons who have signed up on the Commission’s website to receive informational e-mails.
- No one was notified by United States mail because there are no longer members of the public on the United States mailing list.
- Pursuant to the notice, the public hearing was held on December 15, 2022, in the Minnesota State Capitol, Room G3, and by telephone and/or electronically.
- Four members of the public wished to, and did, testify.
- After the public hearing, the record remained open for five calendar days, through December 20, to accept written comments. From the beginning of the public hearing notice period through the end of the public comment period, the Commission received eleven written comments.
- The complete public hearing record—including a list of those who spoke at the hearing, a link to the video and audio of the hearing, and copies of the written comments—were provided to all Commission members on December 22, 2022, were posted on the Commission’s web site shortly thereafter, and were included in the materials for the present meeting.

Director Reitz said that the Commission appeared to have complied with all public notice and hearing requirements to permit it to take final action on the proposed modifications today.

5. Accept or Reject Proposal to Amend the Sentencing Guidelines (Action)

This was on the agenda as an action item. Chair Mitchell led the Commission through a discussion of the proposed modifications set forth in the November 14, 2022, document entitled “Notice of Public

Hearing: Proposed Amendments to the Minnesota Sentencing Guidelines and Commentary” (document 4A&G).

A. Changes to the Calculation of the Custody Status Point

The Commission first discussed the custody status proposal that went to public hearing (part A of the Notice of Public Hearing), public comments received from practitioners at the public hearing, and a January 3, 2023, staff issue paper entitled “Revising Proposed Guidelines Modifications in Response to a Public Hearing” (document 5A1).

Motion by Commissioner Larkin to adopt her custody-status proposal dated January 11, 2023 (document 5A3).

Point of order raised by Commissioner Schnell that the proposal did not comply with the timelines of the Commission’s Special Rules of Order.

Members offered advice to the Chair.

Motion ruled out of order by Chair Mitchell.

The Chair called for any further options on the custody-status issue.

Motion by Commissioner Larkin and second by Commissioner Schnell to reject the proposed changes to the calculation of the custody status point considered at the December 15, 2022, public hearing.

Motion carried on a 7–4 roll-call vote.

Voting “Yes” were commissioners Ibrahim, Knutson, Ladd, Larkin, Moore, Morath and Schnell.

Voting “No” were Chair Mitchell, Vice-Chair Estrada, and commissioners Honsey and Middlebrook.

B. Modifications Related to Sex Trafficking

Motion by Commissioner Morath and second by Commissioner Larkin to adopt the proposed modifications related to sex trafficking considered at the December 15, 2022, public hearing, as set forth in part B of the Notice of Public Hearing.

Motion carried on a 11–0 roll-call vote.

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

C. Technical Modifications

Motion by Commissioner Larkin and second by Commissioner Ladd to adopt the technical modifications considered at the December 15, 2022, public hearing, as set forth in part C of the Notice of Public Hearing.

Motion carried on a 11–0 roll-call vote.

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

6. Review and Approve 2023 Report to the Legislature (Action)

This was on the agenda as an action item.

Director Reitz presented the draft 2023 Report to the Legislature. Director Reitz announced that Commissioner Honsey had recently resigned effective tomorrow, January 13, 2023. There was a brief discussion about modifications and corrections to the draft 2023 Report to the Legislature. Director Reitz informed the Commission that, if approved, the 2023 Report to the Legislature would be sent to the Legislature tomorrow, January 13, 2023.

Motion by Commissioner Moore and second by Commissioner Middlebrook to adopt the 2023 Report to the Legislature subject to in-meeting comments and staff editorial discretion.

Motion carried on a 11–0 roll-call vote.

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

7. Executive Director’s Report (Discussion)

This was on the agenda as a discussion item.

Director Reitz reported on five items:

1. Campaign Finance Board Statements of Economic Interest for Public Officials were due by the end of the month; this is mandatory for all members of the Commission, even outgoing, members who should have received a letter in the mail; if members had not received a letter, they were directed to contact the Campaign Finance Board.
2. Secretary of State application status as of January 11 were:
 - Public Defender - 2 applicants, including incumbent;
 - County Attorney - only the incumbent has reapplied;
 - Peace Officer - 2 applicants, including incumbent (both left over from the 2022 vacancy);
 - Probation or Parole Officer - 4 applicants; the incumbent is not among them;
 - Public Member, General - 2 seats - 13 applicants, including one of the incumbents; and
 - Public Member - Felony Crime Victim - 2 applicants, including incumbent.

Director Reitz reminded commissioners that they continue to serve until their successor was appointed or until they resigned.

3. The Governor's new Corrections Policy Advisor was installed last week and talked to Director Reitz about the change requests. The Governor’s budget request was due later in January.
4. Director Reitz testified briefly before the House Public Safety Committee chaired by Representative Kelly Moller earlier that week where Director Reitz mentioned the Commission’s

legislative recommendations, and one of them was already an author's amendment expected to be added to HF42.

5. Director Reitz announced that Senior Research Analysis Specialist Anne Wall would be retiring in July after 39 years of state service, most of it with the Minnesota Sentencing Guidelines Commission. In the meantime, she had decided to work half-time as part of the agency's phased-retirement program. Director Reitz expressed appreciation for Anne's service.

8. Public Input

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

Jacqueline Williams expressed agreement with Chair Mitchell that the public is disappointed, but not with Judge Larkin. She shared that she was disappointed with Chair Mitchell and other Commission members who were not in support of public safety, and opined that Judge Larkin was not the cause of the delay in moving a custody status proposal. She expressed a desire to see people who have offended while on custody be held accountable for their actions, and thanked the Commission for its hard work. Chair Mitchell thanked Jacqueline Williams for her comments.

9. Adjournment

Chair Mitchell adjourned the meeting at 2:27 p.m., without objection.