

Approved Meeting Minutes

September 7, 2023

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on September 7, 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 Christopher E. Crutchfield, Prof. Richard S. Frase, Judge David Knutson, Kyra Ladd, Judge Michelle A. Larkin, Cathryn Middlebrook, Brooke Morath, Timothy Morin, Chief Brian Mueller, and Latonya Reeves. MSGC Executive Director Nate Reitz and staff member 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 Justice Gordon L. Moore, III, and Surya Saxena, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on July 28, 2023. Also present by telephone and/or electronically were MSGC staff members Kathleen Madland and Linda McBrayer; and members of the public including Jacque Clinton, Diana Rico, Elizabeth Ruhland, and Minneapolis Police Officer Mohamoud Ibrahim, an outgoing Commission member.

1. Call to Order and Roll Call

Chair Mitchell called the meeting to order at 1:00 p.m.

Director Reitz called the roll. Present were Chair Mitchell and commissioners Crutchfield, Frase, Knutson, Ladd, Middlebrook, Moore, Morath, Morin, Mueller, Reeves, and Saxena. Twelve members were present, one absent. A quorum was present.

2. Welcome and Introductions

Chair Mitchell recognized outgoing Commission member Minneapolis Police Officer Mohamoud Ibrahim and presented him with a certification of appreciation for his service to the MSGC. The completed service of Department of Commissioner of Corrections Paul Schell, also an outgoing member, was acknowledged as well.

Chair Mitchell then welcomed the new Commission members to the MSGC and asked all members to introduce themselves.

3. Approval of Draft Meeting Agenda (Action)

This was on the agenda as an action item.

Motion by Commissioner Ladd and second by Commissioner Reeves to approve the meeting agenda.

Motion carried unanimously on a 12–0 roll-call vote.

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

4. Approval of Draft Meeting Minutes from July 27, 2023 (Action)

This was on the agenda as an action item.

Motion by Commissioner Middlebrook and second by Commissioner Knutson to approve the July 27, 2023, draft meeting minutes.

Motion carried unanimously on a 12–0 roll-call vote.

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

5. Fall 2023 Calendar (Action)

This was on the agenda as an action item. Changes to the meeting dates of October 5 and November 2 were discussed due to Commission member conflicts.

Motion by Commissioner Frase and second by Commissioner Knutson to change the October and November meeting dates to October 6—with an orientation for new members at 1 p.m. and the meeting beginning at 2 p.m.—and November 8, respectively.

Motion carried unanimously on a 12–0 roll-call vote.

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

Chair Mitchell requested that the Commission members consider electing a vice-chair at the October meeting to serve in the chair’s absence.

6. Recommendations to the Legislature (Discussion)

This was on the agenda as a discussion item.

Commissioner Larkin joined the meeting at 1:44 p.m., during the discussion of this item.

Chair Mitchell called on Director Reitz, who presented “Possible Recommendations to the Legislature” (item #6), dated August 29, 2023. The presentation outlined four possible recommendations to the Legislature that the Commission may wish to make under its advisory mandate from Minn. Stat. § 244.09, subd. 6:

1. Complete the presentence investigation statute’s “mandatory life sentence” list by amending the definition of “mandatory life sentence” found in Minn. Stat. § 609.115, subd. 2a, to include reference to § 609.2661.
2. Apply the five-year probation cap exceptions to attempts and conspiracies by amending the list in Minn. Stat. § 609.135, subd. 2(b), to include attempts and conspiracies, and expanding the list to include attempts and conspiracies to violate §§ 609.185 and § 609.2661.
3. Correct the sentence cap for juvenile repeat/heinous sex offenses by amending the reference at the end of § 609.3455, subd. 5, to refer to a subdivision that exists.
4. Correct the targeted misdemeanor list by amending the list found in Minn. Stat. § 299C.10, subd. 1(e), to reconcile the citation of the list’s most recent addition to its name.

After presentation of the second staff-suggested recommendation, Commission members discussed the possibility of immediate adoption.

Motion by Commissioner Ladd and second by Commissioner Larkin to adopt the second staff-suggested recommendation, that the Legislature apply the five-year probation cap exceptions to attempts and conspiracies.

Motion carried unanimously on a 13–0 roll-call vote.

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

After presentation of all recommendations, the Commission members discussed the possibility of adopting the remaining recommendations as well.

Motion by Commissioner Knutson and second by Commissioner Reeves to adopt the remaining staff-suggested recommendations—that the Legislature correct the sentence cap for juvenile repeat or heinous sex offenses, correct the targeted misdemeanor list, and complete the “mandatory life sentence” list in the presentence investigation statute—with directions to staff to communicate all recommendations to the Legislature via the leadership and staff of the House and Senate crime committees.

Motion carried unanimously on a 13–0 roll-call vote.

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

7. Changing Minn. Rules Chapter 3000: Decision Points (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz who presented, “Changing the Rules for Changing the Guidelines: Decision Points” (item #7), dated August 30, 2023. The final decision point identified three different approaches to the process for drafting rule changes: a rulemaking subcommittee, working between

meetings; the whole Commission, collectively drafting during successive meetings; and staff drafting between meetings, with the Commission refining at meetings.

During the ensuing discussion, several Commission voiced support for a rulemaking subcommittee, working between meetings. Chair Mitchell asked members to inform staff of their interest in participating on such a subcommittee.

8. Executive Director's Report (Discussion)

This was on the agenda as a discussion item.

Director Reitz reported that MSGC staff is making strides to fill the open senior research analyst supervisor position, with the second-interview process to begin the following day.

Director Reitz reported on his recent discussion with Dr. Julia Laskorunsky, a research scholar from the University of Minnesota's Robina Institute, regarding a proposal for Arnold Ventures to consider funding an elite team of University of Minnesota scholars to provide research support to the Commission during its upcoming comprehensive review of the Sentencing Guidelines. In advance of Arnold Ventures' November funding decision, Director Reitz said he would ask Chair Mitchell to place the question of the Commission's support for the scholars' proposal on the October agenda.

Director Reitz then discussed the National Association of Sentencing Commissions' annual conference, hosted in August by the Nevada Sentencing Commission in Lake Tahoe, Nevada, which three Commission members and two staff members attended. Attendees present reflected on items they wished to share from the conference. The 2024 conference will be hosted by the North Carolina Sentencing and Policy Advisory Commission.

9. Public Input

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

No one wished to speak.

10. Adjournment

Chair Mitchell adjourned the meeting at 3:06 p.m., without objection.