

## Approved Meeting Minutes

**September 8, 2022**

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A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on September 8, 2022, 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 members Judge Michelle A. Larkin, Judge David Knutson, Cathryn Middlebrook, Justice Gordon L. Moore, and Brooke Morath. 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 Vice-Chair Valerie Estrada, and members Tonja Honsey, Mohamoud Ibrahim, and Kyra Ladd, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on July 29, 2022. Also present by telephone and/or electronically were guest speakers Executive Director Mark Bergstrom of the Pennsylvania Commission on Sentencing and Coordinator Keri-Anne Jetzer of the Washington State Sentencing Guidelines Commission; MSGC staff members Kathleen Madland and Anne Wall; and seven members of the public including Elizabeth Ruhland, Julie Wicklund, Candice Mohs, and David Zimmer.

### 1. Call to Order and Roll Call

Chair Mitchell called the meeting to order at 1:02 p.m.

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

### 2. Approval of Agenda (Action)

This was on the agenda as an action item.

**Motion** by Commissioner Larkin and second by Commissioner Knutson to adopt the agenda amended to change item 6 from an “Action” item to a “Discussion” item.

**Motion carried** unanimously on an 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.

### **3. Approval of Draft Meeting Minutes from July 21, 2022, and July 28, 2022 (Action)**

This was on the agenda as an action item.

**Motion** by Commissioner Larkin and second by Commissioner Middlebrook to approve both the minutes of the special meeting on July 21, 2022, and the minutes of the regular meeting on July 28, 2022.

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

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

### **4. Comprehensive Reviews of Pennsylvania’s and Washington’s Sentencing Guidelines (Discussion)**

This was on the agenda as a discussion item.

Chair Mitchell introduced guest speaker Mark Bergstrom, the Executive Director of the Pennsylvania Commission on Sentencing. Mark Bergstrom presented slides from agenda item 4A “Comprehensive Review of Sentencing Guideline.” Bergstrom discussed Pennsylvania’s Sentencing Guidelines background and the similarities and differences from the Minnesota’s Sentencing Guidelines. The Commission asked questions and discussed the presentation. Chair Mitchell thanked Mark Bergstrom.

Chair Mitchell introduced guest speaker Keri-Anne Jetzer, Coordinator of the Washington State Sentencing Guidelines Commission. Keri-Anne Jetzer presented slides from agenda item 4B “Comprehensive Review of Washington State’s Sentencing Guidelines.” Jetzer discussed Washington’s Sentencing Guidelines history, the motivation behind the comprehensive review, and recommendations in 2020 report. The Commission asked questions and discussed the presentation. Chair Mitchell thanked Keri-Anne Jetzer for sharing her presentation with the Commission.

### **5. Welcome New Member**

Chair Mitchell welcomed Officer Mohamoud Ibrahim, whom Governor Walz appointed in July to the Commission as the peace officer representative. Commissioner Ibrahim introduced himself and said he was excited to serve on the Commission. Commissioners welcomed Commissioner Ibrahim and introduced themselves.

### **6. MSGC FY24-25 Budget Change Request (Discussion)**

This was on the agenda as a discussion item.

Director Reitz presented item 6, “Advancing Sentencing Policy & Data for Minnesota in Fiscal Years 2024, 2025, and Beyond.” Director Reitz reported on agency staffing over the past fifteen years, the agency’s budget, and four proposed change items. Director Reitz asked the Commission if they would endorse the change items. The Commission had a detailed discussion about item 6.

Several members expressed their support for the proposal of the budget change for additional staffing needs and the comprehensive review. Some expressed their concerns about the timeline for the

comprehensive review. One suggested asking Washington and Pennsylvania representatives questions on their comprehensive review process consisting of: “What additional staff resources did you hire for the comprehensive review?” “How would you allocate staff knowing how long the process takes?” “What is the roll of the analyst in the comprehensive review?” “What type of analysis were they asked to do?” “How much did the review cost?” Chair Mitchell thanked the Commission for their discussion.

## **7. Sex Trafficking & Prostitution Review (Discussion)**

This was on the agenda as a discussion item.

### **A. Review of Mandate & Action Timeline**

The Commission reviewed the “Sex Trafficking Mandate & Action Timeline” slide recapping the mandate and a timeline. While Director Reitz said there was no formal timeline required by statute, the timeline presented assumed the Commission would intend for a proposal to take effect August 1, 2023. Under that assumption, any proposal to change the Sentencing Guidelines would need to be a discussion item at the meeting October 6, 2022; however, the rule could be suspended with a two-thirds vote according to the Commission’s Meeting Rules. The timeline would require the changes to be preliminarily adopted by the November 3, 2022, meeting, and forwarded to a public hearing on December 15, 2022, to be considered for adoption at the meeting January 12, 2023, and reported to the Legislature January 15, 2023.

### **B. Estimated Impact of Selected Options**

Director Reitz described the staff information paper “Estimated Impact of Aggravated Sex Trafficking and Prostitution Proposals.”

### **C. Sample Draft Language of Selected Options**

Director Reitz described the staff information paper “Sample Draft Language to Rank Aggravated Sex Trafficking” which included alternative ranking options for sex trafficking: One option was that of the Central Human Task Force which recommended ranking all aggravated sex trafficking at Severity Level A; and the second option was from MSGC staff which recommended making a distinction between first-degree and second-degree aggravated sex trafficking.

Chair Mitchell reminded the Commission that there was low impact for either sex-trafficking option presented: either at five prison beds (staff recommendation); or 11 prison beds (Central Minnesota Human Trafficking Task Force recommendation).

Chair Mitchell asked how the Commission wished to proceed with this item: if it wished to see both proposals back in October; one or the other; or neither.

The time was 3:31 p.m. and some Commissioners said they were not prepared to have the discussion today because it was at the end of the scheduled meeting time, because the materials had been reviewed recently, and because some of the meeting materials, although posted on the website, were

not received as email attachments. Director Reitz observed that some Commissioners had difficulty receiving this month's materials as email attachments.

The Commission asked for other related materials from previous meetings as well. Chair Mitchell asked staff to resend related materials today or tomorrow so that members could focus on those materials ahead of the October meeting discussion. Director Reitz said he would send the email to Commissioners by 3:30 p.m. tomorrow. Chair Mitchell asked Commissioners to please let staff know in the next few days if there were other proposals not presented today so that staff would have time to help draft language and analyze impact.

## **8. Possible Custody Status Guidelines Amendments (Discussion)**

This was on the agenda as a discussion item.

### **A. Beganovic Codification- Estimated Impact & Sample Draft Language**

Chair Mitchell explained that this was the proposal brought forward by Commissioner Larkin that would apply the status quo by eliminating the half custody status point (*i.e.*, "codify *Beganovic*"). Director Reitz briefly explained the estimated impact of the proposal and that it would not come from codifying the status quo but from defendants with criminal history scores of 7 or more who also had a one-half custody status point because they will no longer get the three-month durational enhancement. Director Reitz displayed the demographic impact and said the impact was a reduction of 20 prison beds.

### **B. Other Options**

No other options were presented or discussed.

## **9. Executive Director's Report (Discussion)**

Due to time constraints, this item was skipped.

## **10. Public Input**

Chair Mitchell asked if there were any members of the public who wished to speak. No one asked to be recognized.

## **11. Adjournment**

Chair Mitchell adjourned the meeting at 3:42 p.m., without objection.