

Approved Meeting Minutes

February 9, 2023

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on February 9, 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, Judge David Knutson, Justice Gordon L. Moore, III, and Commissioner of Corrections Paul Schnell. 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 was Commission member Officer Mohamoud Ibrahim the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on January 12, 2023. Also present by telephone and/or electronically were MSGC staff members Kathleen Madland, Linda McBayer, and Anne Wall; and members of the public including Elizabeth Ruhland, Matt Majovski, Kevin Hill and Kelly Janssen.

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 and commissioners Ibrahim, Knutson, Larkin, Middlebrook, Morath, Schnell. Seven members were present, three members absent and one seat vacant. A quorum was present.

2. Approval of Draft Meeting Agenda (Action)

This was on the agenda as an action item.

Commissioner Justice Gordon L. Moore, III joined the meeting in person at 1:03 p.m.

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

Motion carried unanimously on an 8–0 roll-call vote.

Voting “Yes” were Chair Mitchell and commissioners Ibrahim, Knutson, Larkin, Middlebrook, Moore, Morath, Schnell.

3. Approval of Draft Meeting Minutes from January 12, 2023 (Action)

This was on the agenda as an action item.

Motion by Commissioner Larkin and second by Knutson to approve the January 12, 2023, draft meeting minutes.

Motion carried unanimously on an 8–0 roll-call vote.

Voting “Yes” were Chair Mitchell and commissioners Ibrahim, Knutson, Larkin, Middlebrook, Moore, Morath, and Schnell.

4. Update to Demographic Impact Statement Policy (Action)

This was on the agenda as an action item.

Chair Mitchell called on Director Reitz who explained that it is required under the current demographic impact statement policy that the Commission members be notified about their opportunity to participate in the review of demographic impact statements. Director Reitz further explained that, currently, there are three bills which meet the criteria for a demographic impact statement: Cannabis, Organized Retail Theft, and Aiding and Abetting Felony Murder. Director Reitz said that he will send a follow-up email about this topic since not all Commission members were present at the meeting.

Director Reitz presented the “DRAFT - Demographic Impact Statement Policy” dated February 9, 2023, explaining the changes most of which were editorial changes except under the “Process” section, which was streamlined.

Motion by Commissioner Schnell and second by Middlebrook to approve version 2.1 of the Demographic Impact Statement Policy as drafted by staff.

Motion carried unanimously on an 8–0 roll-call vote.

Voting “Yes” were Chair Mitchell, and commissioners Ibrahim, Knutson, Larkin, Middlebrook, Moore, Morath, and Schnell.

5. Review of Prostitution Offenses (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz presented “Reviewing How the Sentencing Guidelines Address Prostitution Offense” dated February 9, 2023. The Commission had a lengthy discussion about prostitution offenses. Commissioners expressed their concerns about bed impact and interest in departure cases in which the minor was actually an undercover agent. Commissioners agreed that, if possible, they would like to have someone from law enforcement give any insight they might have about patterns of prostitution in specific areas. Commissioner Officer Ibrahim said that there are task forces that continuously monitor sex trafficking of minors and would be willing to reach out to an individual who is part of a task force in the metro area. Chair Mitchell said that, at this point, the Commission is looking to continue the conversation and gather more information.

6. Governor's FY24-25 MSGC Budget (Discussion)

Director Reitz reminded the Commission of the four agency budget requests made to the Governor. As released last month, the Governor's budget included each of the four requests. Director Reitz listed and described each of the five change items to the Commission:

- Maintain Current Service Levels
- Expand Analysis of Sentencing-Related Data
- Improve Fiscal Transparency & Agency Independence
- Fully Integrate with the Court Information System
- Comprehensively Review the Sentencing Guidelines-Phase 1

7. Recommendation to the Legislature: Clarify Deprivation of Vulnerable Adult Penalty (Action)

This was on the agenda as an action item.

Director Reitz presented the staff paper entitled "Recommendation to the Legislature - Clarify Felony Penalty Reference for Deprivation of Vulnerable Adult" dated February 9, 2023.

Motion by Commissioner Larkin and second by Knutson to recommend that the Legislature clarify the elements and the penalties of the offense defined in Minnesota Statute § 609.233, subdivision 1a and penalized in subdivision 3.

Motion carried unanimously on an 8–0 roll-call vote.

Voting "Yes" were Chair Mitchell and commissioners Ibrahim, Knutson, Larkin, Middlebrook, Moore, Morath, and Schnell.

8. Legislative Update (Discussion)

This was on the agenda as a discussion item.

A. MSGC-Related Bill

Director Reitz presented his Memorandum to the Commission Chair and Members, "Introductions of Bills Directly Related to the MSGC," dated February 8, 2023. Director Reitz explained that the first committee deadline is March 10, 2023, and that non-budget bills must be heard and passed out of the committee and house of origin. Commissioners had a brief discussion about the bills.

B. Other Significant Crime Bills

Director Reitz introduced the staff paper entitled "Selected Crime Bills of the 2023 Legislative Session" dated February 8, 2023; and his Memorandum to the Commission Chair and Members,

“Redefining ‘Felony,’” dated February 2, 2023. The Commission briefly discussed HF 43/SF 816 and the possible impact of the bill.

9. Executive Director’s Report (Discussion)

This was on the agenda as a discussion item.

Director Reitz reported on two items: there was no recent information on when the Governor would appoint the new Commission; and that the National Association of Sentencing Commission announced the dates for the 2023 conference to be August 7 to August 9, 2023, in Lake Tahoe, Nevada.

10. Public Input

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

Matt Majovski, a probation officer for Dakota County spoke on behalf of himself. Majovski shared his concerns about HF 43/SF 816, and the redefinition of a felony and the impact it may have on probation officers opining that the system would eventually adjust after a period of uncertainty and confusion. He thanked the Commission for their work.

Chair Mitchell thanked Matt Majovski for this comment and asked if anyone else would like to make a comment.

No one else wished to speak.

11. Adjournment

Chair Mitchell adjourned the meeting at 2:59 p.m., without objection.