

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
January 27, 2016

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on January 27, 2016, in Room 225 of the Minnesota Judicial Center, 25 Reverend Dr. Martin Luther King, Jr. Blvd., St. Paul, MN 55155. Commission members present were Chair Justice Christopher Dietzen, Angela Champagne-From, Jeffrey Edblad, Sergeant Paul Ford, Judge Caroline Lennon, Cathryn Middlebrook, Commissioner of Corrections Tom Roy, Judge Heidi Schellhas, and Senior Judge Mark Wernick.

MSGC staff members present were Executive Director Nate Reitz and staff members Anne Wall, Kathleen Madland, and Jill Payne. Assistant Attorney General Jim Early was also present.

Members of the public present were Robert Small, Minn. County Attorneys Association; and Lisa Netzer, Minn. Department of Corrections.

1. Call to Order

The Chair called the meeting to order at 2:00 p.m.

2. Approval of Agenda

This was on the agenda as an action item. The Chair wished to amend the agenda and add a new item called "Other Business."

Motion by Sgt. Ford and second by Mr. Edblad to approve the meeting agenda as amended.

Motion carried.

3. Approval of Meeting Minutes

This was on the agenda as an action item.

Motion by Judge Lennon and second by Judge Wernick to approve the meeting minutes from December 30, 2015.

Motion carried.

4. Ratification of Provisions of the Annual Report to the Legislature

This was on the agenda as an action item. The Chair directed members to two excerpts from the *2016 Report to the Legislature* that were in the meeting materials. The first excerpt was in the “Recommendations to the Legislature” section (p. 6), and the second was in the “Non-Legislative Modifications to Controlled Substance Offenses” section (pp. 14-17). Each excerpt contained a footnote explaining, in part, that the some of the content, while not formally adopted by the Commission as a body, was consistent with the Commission’s discussion at the time of the adoption of the pertinent policy.

The Chair stated that he wished to make a motion to ratify the text of the report to accurately reflect the reasons that the Commission took action on those particular items.

Motion by Chair Dietzen and second by Mr. Edblad to ratify the text of the annual *Report to the Legislature* with the following two modifications: First, to remove the footnote on page 6 and to replace the asterisk with the following text in the body of the report: “The author of the motion indicated the following reasoning in support of the motion.” Second, to remove the footnote on page 16 and to replace the asterisk with the following text in the body of the report: “The author of the motion presented four reasons in support of this conclusion.”

Motion carried.

5. 2014 Sentencing Practices Data Presentation

This item had been tabled on December 30, 2015, and was on the agenda as a discussion item. The Chair called on research staff to present the 2014 sentencing practices summary data. Senior Research Analysis Specialist Anne Wall presented data on volume of offenders by offense type; percent change in number of offenders; distribution of offenders by race, ethnicity, and judicial district; total incarceration rates by gender, race, ethnicity, and judicial district; average prison sentences and confinement in local correctional facilities; and departures.

The Commission asked questions and discussed the trend data.

6. Continuation of Work Plan Discussion from July 22, 2015, Commission Meeting

This was on the agenda as a discussion item. The Chair called on the Executive Director who presented a continuation of the work plan originally discussed on July 22, 2015. The work plan was updated to show the projects that the Commission had finished. New potential work plan items were also brought to the Commission’s consideration.

The Chair called on members to list the items that they would like to focus on in 2016. Some items discussed, not necessarily in order of priority, included: practitioner and staff issues (e.g., make non-Minnesota offense policy consistent, EJJ policy discussion, remove decimals on attempted murder grid, and technical modifications); address repeat violent offender sentencing; expand impermissible reasons for departure; review unranked offenses; examine criminal history scores; address high departure rate offenses; and address mandatory minimum offenses (for felon in possession of a firearm, in particular). The Chair suggested that the Commission settle on a work plan at its next meeting, February 24, 2016.

Because it was time-sensitive, a member suggested that the Commission address the repeat violent offender sentencing issue at its February meeting, before the start of the legislative session on March 8, 2016. This issue had been brought to the Commission by Anarae Schunk's surviving family members, who had requested the Commission's support for their proposal for stiffer mandatory sentences for repeat violent offenders.

Another member wished to discuss Senate File 2109, which was introduced on April 22, 2015, and is on the February 24, 2016, Prison Population Task Force agenda. The bill establishes a program for release of inmates under the custody of the Commissioner of Corrections. Inmates must petition for release. The petitions may be vetoed by the Commissioner. Petitions not vetoed by the Commissioner are reviewed by a three-judge panel.

Motion by Mr. Edblad and second by Judge Schellhas to oppose Senate File 2109, 89th Minn. Legislature, as introduced, as inconsistent with the goals of the Sentencing Guidelines.

A discussion ensued.

Motion failed on a 4-4 vote, with Commissioner Roy abstaining.

7. 2016 Meeting Schedule

This was on the agenda as a discussion item. The Chair called on the Executive Director who presented the tentative meeting calendar and a suggested meeting calendar for 2016. On the suggested meeting calendar, the May and June meeting are combined and held June 8, 2016. The November meeting is November 9, 2016, so as not to conflict with Thanksgiving and to allow adequate time for publishing a public hearing notice if the Commission wished to hold a December public hearing.

Motion by Commissioner Roy and second by Sgt. Ford to approve the suggested meeting calendar.

Motion carried.

8. Executive Director's Report

Executive Director Reitz reported that the Prison Population Task Force will meet the morning of February 24, 2016, and, as previously discussed at this meeting, Senate File 2109 is on the agenda.

The Director reported that staff is updating the *Minnesota Sentencing Guidelines and Commentary Annotated* (Minnesota State Bar Association Continuing Legal Education, 1995). The publisher has released the copyright to MSGC. Staff intends to revive it and update it for publication August 1, 2016. Executive Director Reitz stated that this is a staff research project and would not be intended to articulate any official policy position of the Minnesota Sentencing Guidelines Commission. The Commission asked to see the revised edition before publication.

The Executive Director reported that he had not been made aware of any legislative effort not to permit the Commission's modifications to go into effect August 1, 2016.

Lastly, the Executive Director reported that Judge Lennon had been reappointment to the Commission for a four-year term commencing January 5, 2016. Members congratulated Judge Lennon.

9. Other Business

Chair Dietzen said that he was in the process of evaluating the Executive Director's performance and requested feedback from other Commission members on that topic.

10. Public Input

The Chair called on members of the public present and asked if anyone wished to speak. No member of the public came forward.

11. Adjournment

Motion to adjourn by Judge Lennon and second by Ms. Middlebrook.

Motion carried.

The meeting was adjourned at 4:08 p.m.