

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
March 19, 2015

The Minnesota Sentencing Guidelines Commission (MSGC) meeting was held on March 19, 2015 at the Minnesota Judicial Center; 25 Rev. Dr. Martin Luther King Jr. Blvd.; St. Paul, MN 55155; Room G-31. Commission members present were Chair Jeffrey Edblad, Caroline Lennon, Jason Anderson, Justice Christopher Dietzen, Cathryn Middlebrook, Commissioner of Corrections Tom Roy, and Judge Heidi Schellhas. MSGC staff members present were Executive Director Nate Reitz, and staff members Mike Jones, Kathleen Madland, and Anne Wall. Assistant Attorney General Jim Early was present.

1. Call to Order

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

2. Approval of Agenda

Motion made by Justice Dietzen and seconded by Mr. Anderson to approve the agenda.

Motion carried.

3. Approval of Meeting Minutes

Motion made by Commissioner of Corrections Roy and seconded by Judge Lennon to approve the February 19, 2015, meeting minutes.

Motion carried.

4. Reasons for Departure in the Guidelines

The Commission further discussed the reasons for departure in the Guidelines.

The Commission discussed Guidelines policy regarding whether a presumptive stayed sentence that is executed upon a defendant's peremptory demand for execution of sentence should be counted an aggravated dispositional departure. Commissioner Roy made a motion to adopt staff-provided language amending Guidelines § 2.D. and comment 3.A.202. Following discussion, the motion was withdrawn pending staff redrafting of the language of the motion to conform to the will of the Commission as expressed during its discussion.

The Executive Director submitted to the Commission the current version of the Departure Report form. Commission discussed the form and the uses to which it is put, and members provided staff with suggestions for improvement to the form.

Motion to accept the following addition to Guidelines § 2.D.3 (regarding mitigating factors that may be used as reasons for departure) made by Commissioner of Corrections Roy and seconded by Judge Lennon.

(7) The offender is particularly amenable to probation. This factor may, but need not, be supported by the fact that the offender is particularly amenable to a relevant program of individualized treatment in a probationary setting.

* * *

2.D.303. The requirement that a defendant be “particularly” amenable to probation ensures that the defendant’s amenability to probation distinguishes the defendant from most others and truly presents the substantial and compelling circumstances necessary to justify a departure. State v. Soto, 855 N.W.2d 303, 309 (Minn. 2014). While social or economic factors cannot justify a departure, such facts may be relevant to determining whether a defendant is particularly amenable to probation. Id at 312. In determining whether a defendant is particularly suitable to individualized treatment in a probationary setting, for example, a court is permitted to consider the defendant’s age, prior record, remorse, cooperation, attitude before the court, and social support. State v. Trog, 323 N.W.2d 28, 31 (Minn. 1982).

Motion carried.

The Commission also discussed the wording of factors that should not be used to depart (Guidelines § 2.D.2). The discussion was tabled.

5. Racial Impact Screening and Senate File 769

The Chair called on the Executive Director to explain the issue before the Commission. Executive Director Reitz directed the Commission to the relevant materials: Senate File 769, and presented information regarding Racial Impact Statements. The Executive Director offered a new MSGC Racial Impact Policy for the Commission’s review. In proposed Senate File 769, it is stated that MSGC screens any bill which may affect the racial composition of the criminal offender population. If a bill may affect the racial composition of the criminal offender population, MSGC will issue a racial impact statement.

The Commission discussed the issue. The Executive Director welcomed guidance from the Commission on how to proceed with refining the policy. A Commission member added that they would prefer that Racial Impact Statements be made when there is potential for a bill to create either a positive or negative racial impact, not just a negative racial impact.

The item was tabled.

6. Consecutive Supervised Release Update

The Chair called on the Executive Director to update the Commission on information regarding consecutive supervised release. Additional materials were made available regarding post-*Schnagl* cases. Due to the numerous pending cases involving related issues, the Commission believed that further discussion on this issue would be premature. The Chair suggested that the Executive Director provide the Commission with a status update in about 60 days.

7. Executive Director's Report

The Executive Director explained that new appointments to the Commission may be made by the April meeting. Because of this, two tentative agendas will be made: one if there are new members of the Commission that have been appointed, and another (traditional) agenda if new members are not appointed.

Commissioners who went to the Justice Reinvestment Conference briefly shared their experience with the other members.

The Executive Director shared with the Commission that the Executive Director of the Robina Institute has requested time on next month's agenda for the Commission to review a draft of her book. It was decided that this could be part of a pre-meeting for those members interested in sharing their feedback.

8. Public Input

No members of the public had been present during the meeting.

9. Adjournment

Motion to adjourn made by Justice Dietzen and seconded by Mr. Anderson.

Motion carried.

The meeting adjourned at 4:03 p.m.