

Minnesota Sentencing Guidelines Commission
Approved Meeting Minutes
July 28, 2011

The Minnesota Sentencing Guidelines Commission (MSGC) meeting was held on July 28, 2011, in the Pung Conference Room at the Department of Corrections (DOC), 1450 Energy Park Drive, St. Paul, Minnesota. Commission members present were Chair Jeffrey Edblad, Jason Anderson, Hon. Edward Cleary, Sgt. Paul Ford, DOC Commissioner Tom Roy, Hon. Gordon Shumaker, and Yamy Vang. MSGC staff present were Executive Director Kelly Mitchell, Jill Payne, and Anne Wall. Jim Early from the Attorney General's Office was also present. There were no members of the public in attendance.

1. Call to Order.

The meeting was called to order at 2:01 p.m.

2. Approval of Meeting Minutes from June 16, 2011.

Motion was made by Hon. Gordon Shumaker and seconded by Yamy Vang to approve the minutes from June 16, 2011. Ms. Vang noted that there was a typo on page 4. The members voted to approve the minutes with that correction.

Motion carried.

3. Executive Director's Report.

Kelly Mitchell gave the Executive Director's report.

- Staffing for the MSGC Office was greatly reduced during the statewide shutdown. One staff member was retained during the shutdown to continue to approve sentencing worksheets and provide phone support to probation officers, judges, and attorneys in applying the Guidelines. The remaining employees returned to work on July 21, 2011. The shutdown put the office behind in preparing the 2010 annual data set, which will form the basis for the Commission's annual reports, but the office is handling the workload issues fairly well.

Motion was made by Commissioner Roy and seconded by Hon. Gordon Shumaker to have it be reflected in the minutes that the Commission welcomes back the employees who were laid off during the shutdown and expresses appreciation for their sacrifice during that time. The Commission also expresses appreciation for the employee who continued to keep the core functions of the office operating during the shutdown.

Motion carried.

- The Judiciary and Public Safety Omnibus Bill was passed during the special session. Highlights of the bill were:
 1. The MSGC Office was budgeted for the amount requested.
 2. The bill contained amendments to prostitution offenses. *See* Agenda item 5 for detail and discussion.
 3. The bill contained a new body of law referred to as the “Safe Harbor Provisions,” which:
 - a. Creates a new classification of children in need of protection or services for sexually exploited youth. A “sexually exploited youth” is a child who engages in prostitution or who is sexually assaulted.
 - b. Effective 2014, changes the definition of “delinquent child” to exclude children under 16 who engage in prostitution. These children will be treated as children in need of protection or services.
 - c. Effective 2014, creates a diversion program for first-time prostitution offenses committed by 16 and 17 year olds.
 - d. Directs the Commissioner of Public Safety to develop, if sufficient outside funds are donated, a statewide model to address the needs of sexually exploited youth or children at risk of sexual exploitation and to report back to the Legislature by January 2013.

Commissioner Roy informed the Commission that the bill also included language that allows the Department of Corrections to consider studying several items such as early release incentives and probation revocation alternatives. Commissioner Roy noted that he may need to draw on the Commission’s expertise regarding these topics sometime next year.

- Ms. Mitchell noted that she will be attending the annual meeting of the National Association of Sentencing Commissions (NASC) in August. In preparation for the meeting, each state was asked to complete a questionnaire about current criminal justice initiatives, budget impacts, offender risk assessment and recidivism, prison and jail populations, and any recent studies or evaluations. Commission members assisted in completing the questionnaire.

4. 2011 Sentencing Guidelines and Commentary

The Commission reviewed the draft 2011 Sentencing Guidelines and Commentary. The amendments and technical changes were put on for public hearing July 21, 2011. There were no attendees. One person signed up to testify, but withdrew her request. She was informed that the record would be open for one week following the hearing for any written testimony, but none was submitted.

Motion was made by Hon. Gordon Shumaker and seconded by Jason Anderson to approve the 2011 Sentencing Guidelines and Commentary with modifications as published for the public hearing.

Motion carried.

5. Special Legislation Relating to Prostitution Offenses

The Omnibus Judiciary and Public Safety Bill contained amendments to the prostitution offenses that revised the definitions for “patron,” “prostitute,” and “prostitution” in Minn. Stat. § 609.321, and established separate non-felony penalties for patrons and prostitutes in Minn. Stat. § 609.324. These amendments do not directly create or amend a felony offense, but they do form the underlying definitions that support the felony offense of committing a prostitution offense in a school or park zone, which is in Minn. Stat. § 609.324. Because patrons and prostitutes are now separated out, it is clear that both actors can be charged with this felony offense. The amendments were brought to the Commission’s offense to confirm whether the felony offense should continue to be ranked at severity level one regardless of which actor – patron or prostitute – is charged.

Motion was made by Commissioner Shumaker and seconded by Sgt. Paul Ford to continue to rank the felony offense of committing a prostitution offense in a school or park zone under Minn. Stat. § 609.3242, subd. 2(2) at severity level one.

Motion carried.

6. Other Business

a. Assessment Tools.

Commissioner Roy asked whether the Commission would be interested in an overview of the assessment tools in use by corrections to manage probation offenders. The Commission was interested, so the topic will be added to a future agenda.

b. Prison Visit.

Commissioner Roy stated he will send out possible dates for a prison tour within the next week or so.

7. Public Input

There was no input from members of the public.

8. Adjournment

Motion for adjournment was made by Jason Anderson and second by Yamy Vang.

Motion carried.

Chair Edblad adjourned the meeting at 2:40 p.m.