Maryland State Commission on Criminal Sentencing Policy
November 16-17, 1998

Commission Members in Attendance:
Hon. John F. McAuliffe, Chair
Judith R. Catterton, Esq.
Chief Walter Chase
Mr. LaMonte Cooke
Hon. Timothy Doory
Del. James Harkins
Sen. Delores Kelley
George Lipman, Esq. for Stephen Harris, Esq.
Sen. Christopher McCabe
Marna McLendon, Esq.
Carolyn Quattrocki, Esq.
Ms. Roberta Roper
Sec. Stuart Simms
Del. Joseph Vallario

Consultants and Staff Members in Attendance:
Kim Hunt, Executive Director
Linda Schuett, Esq.
Claire Souryal, Research Director
Mr. Adam Gelb
Hon. Andrew Sonner
Ms. Sally Marker
Hon. Alexander Wright

DAY ONE - NOVEMBER 16, 1998

The meeting was called to order at 10:30 AM, November 16, 1998. The Chairman, the Honorable John F. McAuliffe, reviewed the purpose of the Commission and the two-day meeting agenda.

Judge McAuliffe started the meeting with an overview of the issues under consideration: (1) truth in sentencing policy (e.g., revisions to minimum parole eligibility, good time/diminution credits, and judicial reconsideration of sentences); (2) revisions to the voluntary sentencing guidelines system (e.g., encourage increased judicial compliance with the guidelines system, revise cell ranges to reflect current sentencing practice, enumerate mitigating and aggravating factors, improve sentencing guidelines worksheet); (3) the creation of a permanent sentencing commission and the authority of such a commission; (4) the expansion of correctional options programs (COP) as a front-end sentencing option; (5) the utilization of mandatory minimum sentences; (6) parole eligibility (e.g., geriatric provision).

Dr. Hunt directed the Commission's attention to a list of twelve proposed recommendations and findings to support the recommendations. He suggested that discussion commence with Recommendation Five, which states: "Maintain voluntary guidelines and increase judicial compliance to a 70% target."

Dr. Hunt explained that a "hybrid" model (a combination of voluntary and mandatory sentencing for the person offense-sentencing matrix) was considered and rejected by the Commission.

Senator Kelley suggested adding a finding to support Recommendation Five, which states that due to concurrent jurisdiction between circuit and district courts, a hybrid system, would have been problematic. Senator McCabe asserted that he would also like some mention of the hybrid system in the report since the

Commission's study of more certain penalties for person offenders would otherwise not be reflected. Senator Kelley concurred.

Mr. Gelb questioned the meaning of increased judicial compliance in a system where recommended sentencing ranges are very wide. He suggested that compliance should not be a goal in and of itself and asserted that some uniform width should be adopted so that judicial compliance means something (e.g., midpoint +/- 25%).

Judge Doory countered that the more you focus the width of the cell, the more you create noncompliance. Since we now have 55% compliance to broad cells, narrowing the ranges will only create more noncompliance. In order to encourage compliance, the width of the cell must be wide enough to allow for discretion.

Judge McAuliffe proposed that the appropriate cell widths could be studied by a permanent sentencing commission.

Ms. Catterton added that a permanent commission should study the reasons underlying noncompliance generally, as well as for individual crimes.

Ms. Schuett asserted that not much would be accomplished if compliance is simply increased to the existing recommended ranges, without modifying the cell widths.

Dr. Hunt turned the Commission's attention to proposed Recommendation Six, which reads:

> *Revise guideline matrices to reflect current judicial sentencing practice.*

Dr. Hunt explained that the current sentencing range within each cell could be adjusted to reflect current sentencing practices. One method of adjusting the cells would be to adopt the interquartile range of sentences that have been imposed statewide during a particular time period. The interquartile range would exclude the lowest 25% of sentences and the highest 25% of sentences that fell within a particular cell. Dr. Hunt displayed the resulting cell ranges.

Mr. Lipman inquired whether data was available to shed light on mitigating and aggravating factors that may influence compliance.

Dr. Hunt replied that approximately 75% of the departure sentences failed to provide reasons for the departure.

Judge McAuliffe advised that the Commission either (1) recommend that the guideline ranges be modified to comport with current judicial practice and perhaps even reduced further to offset the adoption of a minimum parole eligibility standard of 50% or 60%; or (2) recommend that a permanent commission study the viability of guidelines changes.

Judge Doory noted that the Commission had not decided what the power of the permanent commission would be and that decision should be made first.

Judge McAuliffe responded that permanent commission ought to be empowered to make changes to the guidelines with the understanding that the legislature could trump its changes (similar to the current judicial conference).

Judge McAuliffe then suggested that a permanent commission should be permitted to make changes to the text and numbers of the sentencing guidelines, as is currently done by the judicial conference committee. The suggestion was placed in the form of a motion and duly seconded.

Senator McCabe inquired how the legislature would trump the permanent commission's revisions.

Judge Wright noted that the permanent commission would supplant the existing judicial conference.

Ms. McLendon asked Dr. Hunt about the practice of the permanent sentencing commission in Virginia .

Dr. Hunt replied that in Virginia changes to guidelines forms or any other changes that would have an appreciable effect on sentencing policy do not take effect until the following July, thus allowing opportunity for action by the legislature before the changes take effect.

Judge McAuliffe noted that it may be more politically palatable if the changes of a permanent commission do not take effect for a particular period of time.

The Commission then voted on the motion to recommend a permanent sentencing commission with the authority to suggest changes that would not become effective until a set date, possibly July 1 of each year. The motion was approved unanimously by voice vote.

The discussion then turned to truth in sentencing policy. Judge McAuliffe reiterated that part of the public's distrust in the system stems from the lack of relationship between the court imposed sentence and the actual time served (due to the processes of court reconsideration, parole release, and diminution credits). The first step in realizing truth in sentencing could be to recommend a minimum percentage of the court-imposed sentence that should be served. Should we adopt a 50% across-the-board standard, for example? Why should we limit parole eligibility criteria to person offenders?

Dr. Hunt presented statistics on the average percentage of time served among inmates in Maryland as well as at the national level. He also presented tables illustrating release practices for 8 commonly occurring offenses in Maryland.

Senator Kelley observed that truth in sentencing could be achieved if the judge at the time of sentencing explained release practices (e.g., the award of good time credits, the possibility of parole release) and then specified the absolute minimum that an inmate would serve.

Judge McAuliffe noted that in order to announce a sentence and specify the minimum, judges would have to know the rules on diminution credits. Further, since it is not possible to know how many credits an inmate will earn in the future, judges would have to assume that offenders would earn the maximum number of credits.

Judge Sonner noted that judicial announcements may therefore distort reality because although the minimum may be reported, the offender would actually serve more time.

Judge Wright asserted that if a judge sentences an offender to 6 years and is required to announce in court that the offender will serve a minimum of 2 years, the judge would likely increase the imposed sentence to 10 years. Therefore, the policy would likely have the unintended consequence of increasing judicially imposed sentences.

Mr. Gelb observed that since the Commission appears to be unwilling to spend a lot of money on prison construction, Commission recommendations that increase bed space needs would have to be offset by a reduction in the guidelines ranges. Since the public will likely not make the distinction between lowering the guidelines a little and lowering the guidelines a lot, it would make more sense to lower the guidelines a great deal and then achieve a high level of truth in sentencing (e.g., 85% or even 100%).

Secretary Simms stated that if you have to choose between disclosure and restricting parole eligibility, disclosure is preferable. The unintended consequences of implementing truth in sentencing at 70% or 100% are a major concern.

Senator McCabe asserted that he is not compelled to support a 50% minimum parole eligibility requirement across-the-board since the public is most concerned about violent offenders. He would therefore support truth in sentencing efforts targeted at violent offenders.

Judge McAuliffe contended that he considers it a problem when a system of sentencing does not require offenders to serve a minimum of 50% of the court-imposed sentence.

Mrs. Roper asserted that the public is focused on the most violent offenders and wants some minimum imposed. They also want truth in sentencing across-the-board. She further stated that our presence on the commission is not justified if we simply juggle the numbers. The public would approve higher costs for incarceration for violent offenders with the addition of correctional options programs.

Ms. Schuett noted that commission members are using different words for the same concept. The essence of the problem is that people understand and respect the system.

Judge McAuliffe reiterated the problems of achieving truth in sentencing by simple judicial announcement: (1) the announcement does not comport with reality if the minimum time served is reported; and (2) the announcement does not necessarily mean the average if the average is reported.

Senator Kelley proposed that at the very least a generic fact sheet could be used to explain release practices with perhaps a phone number to call if the individual has additional questions.

Ms. Catterton asserted with regard to disclosure that the messenger may be more important than the content of the message. If the message is confusing, then the message can be straightened out, but the messenger should be consistent.

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Ms. McLendon stated the need to make a recommendation regarding good time credits. She moved to ensure that mandatory release occurs after parole eligibility. She noted that part of the problem is the juxtaposition between parole eligibility and good time credit.

Judge McAuliffe stated that it is a problem of the cart before the horse. First, the Commission must decide whether parole eligibility should be restricted. A restriction to parole eligibility would then require an automatic change in good time/diminution credits. Judge McAuliffe requested that Dr. Hunt present simulation results regarding the adoption of truth in sentencing policy.

Dr. Hunt presented 3 options to the Commission. Option 1 consisted exclusively of a recommendation to increase judicial compliance to a target of 70%. Option 2 consisted of a judicial compliance target of 70% in addition to an across-the-board increase to a minimum parole eligibility of 50% for drug and property offenders and 60% for person offenders. Option 3 would raise the minimum parole eligibility to 50% in all cases but would also reduce each cell in the sentencing matrixes to the interquartile range with an additional reduction to offset the increase in the minimum parole eligibility to 50%.

Ms. Schuett questioned how anyone could disagree with reducing the guideline ranges to reflect current judicial practice.

Ms. McLendon responded that she disagreed with guidelines reduction because any reduction introduced the possibility of a slippery slope of reductions -- in other words, further reductions of recommended guidelines ranges.

Judge McAuliffe submitted that if judicial compliance is successfully increased, additional prison bedspace will be required unless guideline ranges are reduced. He further asserted that there are 2 reasons to reduce the guideline ranges: (1) to more fairly reflect current judicial practice; and (2) to allow for some minimum amount of time to be served.

Delegate Harkins estimated that an increase of 523 beds translates to 50 million dollars in construction costs plus 18 million dollars/year in operating costs.

Mr. Cooke asked about the effect of policy changes on local facilities.

Chairman Vallario responded that if sentences are reduced, the numbers sentenced to local facilities would increase.

Judge Sonner countered that actual sentencing practices should not change.

Judge McAuliffe suggested the Commission should vote on the question of extending the minimum parole eligibility across the board.

Senator McCabe suggested that the final Commission report contain all of the proposals the Commission has considered to date. A Commission vote on the proposals could take place at a later date.

Senator Kelley responded that the legislature would have a compressed period of time to consider the proposals and will be less focused. Therefore, the Commission should tell them what we think.

Judge McAuliffe agreed that all options should be included in the report along with the corresponding cost.

Senator Kelley moved to consider Option 3.

Ms. Catterton noted that modifications to parole were proposed for 2 reasons: (1) to gain federal money to implement 85% truth in sentencing; and (2) to restore public confidence. She questioned whether increasing parole eligibility to 50% would really restore public confidence. Since there is no change to time served, there is no real change -- only a change in perception.

Senator Kelley asserted that the system would become more predictable and understandable and there would be greater correspondence between imposed sentence and actual sentence.

Judge McAuliffe additionally stated that the public is assured that an individual would not serve any less than the established minimum, thereby inspiring confidence in the system.

Ms. Catterton asked what is unique about drug and property offenders now that allows them to be released earlier. She also observed that Option 3 changes the allocation of discretion, shifting it from the parole commission to an earlier phase in the system.

Judge McAuliffe noted that individuals will not be adversely affected since they will get shorter sentences, but will serve a greater proportion.

Ms. Catterton raised the example of the sentencing of hard core addicts. She noted that it may be difficult to predict what progress they will make during incarceration (e.g., in drug treatment) at the time of sentencing. The parole commission may therefore be in a better position to make decisions that impact sentence length.

Judge Doory suggested that changes to the guidelines, judicial compliance, and minimum parole eligibility should be made incrementally. First, an attempt should be made to increase compliance. Other changes could then follow. It is unreasonable to think that it is possible to predict the impact of simultaneous change.

Mr. Gelb observed that any time judicial compliance with the guidelines is under 50%, parole discretion is enhanced.

Secretary Simms agreed that incremental change is very important.

Judge Wright asked when we would expect to assess the impact of a 70% judicial compliance strategy -- after 1 year, 2 years, 3 years?

Ms. Schuett questioned how we would achieve 70% compliance without making other changes to the guidelines.

Judge McAuliffe replied that we would expect to see changes in judicial compliance within the first year. Judge Doory concurred that once the system is put in place, increases to compliance should occur within the first year.

Judge McAuliffe suggested we take stock of the Commission's position on Option 3. A motion for Option 3 would include a reduction of the guideline ranges to the interquartile range in addition to some minimum

parole eligibility requirement to be decided later.

Chairman Vallario asserted that the parole commission has been around for approximately 100 years, knows what it is doing, and has access to relevant reports. He stressed that we should not take authority away from the parole commission.

A vote was taken on Senator Kelley's Option 3 motion. Nine members voted in opposition to the motion and 3 members voted in favor of the motion.

Senator Kelley then suggested a backup motion of Option 1.

Judge Doory questioned whether we would be able to recommend Option 1, collect data on the impact, and then allow the permanent commission to proceed with further changes. He also inquired whether members of the Commission think that the current system of parole should be recommended.

Judge McAuliffe suggested a straw vote on whether to explore further the change to a minimum parole eligibility criterion with the understanding that we would also have to change good time credit. Four members voted in favor of continued exploration. Four votes were not enough to continue study of the issue.

The next topic of discussion was diminution credits.

Secretary Simms stated that the topic of diminution credits/good time needs a lot of clarification. He suggested that simplification would clearly require further study. He proposed a motion to study and simplify the allocation of diminution/good time credits as a charge of a future, permanent commission.

Senator McCabe concurred that we can do no more than study and that the topic should be looked at in greater detail.

Mr. Gelb raised the issue of whether it would be preferable to require inmates to earn the credits rather than allocate them up-front at the start of the prison term.

Secretary Simms' motion for further study of diminution credits/good time was passed.

Judge McAuliffe summarized the sentiment of the commission stating that if practicable good conduct should be awarded as earned, rather than awarded as a lump sum at the outset of the prison term. The staff was instructed to study the recommendation and include it in the final report.

The next issue for discussion is judicial reconsideration of sentence. Sentenced offenders are permitted to file a motion within 90 days to reconsider their sentences. Once the motion is filed, a hearing must be held in order to reduce the imposed sentence. Some judges have held onto the motions for reconsideration for years. Judges therefore act as a second parole board (although they have less information at their disposal than the parole board). The question at issue is whether a time limit should be placed on judicial considerations.

Ms. Catterton noted that frequently everyone in the courtroom agrees that judicial reconsideration is the desired outcome. It represents a compromise in court. Further, a time limitation may invite people to become more devious (e.g., defer sentencing). No matter what time limit you place, people will get around it.

Judge Sonner noted that most of the time it is 1 or 2 judges acting as a parole board. He considered it an unequal application of the law; not all judges do it.

Ms. McLendon expressed an interest in closure. Ms. McLendon proposed a limit of 1 year from filing the motion for reconsideration.

Judge Doory amended the motion to equal 18 months.

Ms. Catterton noted the administrative problems of a time limit. Who would keep track? Such a limitation would burden the defense counsel to remind someone to resurrect the motion.

Judge McAuliffe suggested that it would be the defendant's and the counsel of the defendant's responsibility to get it heard.

Chairman Vallario noted that the motion for reconsideration is the cheapest way to encourage offender rehabilitation. Offenders will do everything in their power to rehabilitate themselves.

A vote was taken on the motion to limit judicial reconsideration to 18 months. Three members voted in favor of the motion and 8 members voted in opposition to the motion.

DAY TWO - NOVEMBER 17, 1998

Discussion began with proposed recommendations related to the implementation and expansion of correctional options programs. The proposed recommendations read as follows: (1) Allow judges access to Corrections Options sentences (front-end); (2) COP integrated into guidelines; and (3) Expand Corrections Options statewide and emphasize Break the Cycle model.

Dr. Hunt presented 2 means by which correctional options could be incorporated into existing sentencing practice: (1) categorical exception (where correctional options programs are not integrated into the sentencing guidelines and are viewed predominantly as programming); and (2) zone of discretion (where correctional options are integrated into the guidelines matrix and viewed as a sanction that falls between probation and prison as well as programming). Correctional options programs can also be considered exclusively a back-end option or they could be used as a front-end, sentencing option for the judiciary.

Dr. Hunt presented 2 options from which Commission members might select: (1) categorical exception in conjunction with front-end sentencing; or (2) zone of discretion in conjunction with front-end sentencing (plus choice of rate of utilization - 25%, 50%, 75%).

Mr. Gelb questioned what the anticipated length of stay in COP was.

Dr. Hunt responded roughly 12 months given that treatment programs are less likely to be effective for short lengths of stay. The way in which the 12-month period is allocated is up for discussion, however.

Judge McAuliffe asked whether COP would be considered as part of a split sentence (e.g., 3-year sentence imposed, but suspended on condition of participation in COP).

Mr. Gelb responded that it would likely be contingent on the power of the COP authority. The better "hammer" is within the COP program given violation(s) rather than return to the court for sanctions.

Secretary Simms asked Judge McAuliffe and Judge Sonner how comfortable they were with the practice of administrative 30-day "jamming" given due process concerns.

Judge Sonner responded that if consent is given up-front, he does not have problems with the practice.

Mr. Gelb noted that under current Maryland law (specifically, the work release statute), the executive branch has the power to place and remove offenders from the program with or without cause.

Judge Wright replied that if a person would otherwise be incarcerated, COP would be considered a benefit so therefore due process concerns would not be a problem.

Ms. McLendon asserted that she liked the zone of discretion model and believes that it is the only way to be innovative. She noted that following the High Intensity Drug Trafficking (HIDTA) model, offenders serve 18 months. The first phase of the sentence is served in a facility. Treatment in the facility is then followed by treatment in the community.

Secretary Simms raised the issue of risk and needs assessment in the recommendations.

Dr. Hunt responded that the risk and need assessment component is covered under a separate recommendation related to the work of the permanent sentencing commission.

Judge McAuliffe advised that the reference to the risk and needs assessment should be stated in the main recommendation related to COP.

Judge Doory questioned whether risk and need assessments would be available at the District court level.

Judge McAuliffe responded that they would as we continued to expand.

Judge Sonner submitted that it would be a mistake to make the programs available only to the Circuit courts.

Judge McAuliffe questioned how far the Commission would be willing to go in making a recommendation regarding short-term jailing authority as part of the correctional authority.

Mr. Gelb suggested that it would be better if the Commission recommended the authorization for short-term jailing.

Judge McAuliffe questioned whether short-term stays at the local level create unacceptable administrative and processing problems.

Mr. Cooke responded that weekend sentences are still common on the Eastern Shore and do in fact pose an administrative hassle because inmates must be booked at each entrance and exit.

Secretary Simms concurred that it would present a problem to the Baltimore City Detention Center. Each inmate would have to be identified, searched, assigned, and found a bed.

Judge McAuliffe questioned whether this was considered in Break the Cycle.

Mr. Gelb answered that Break the Cycle does require a series of short, 2-day stays.

Judge McAuliffe inquired whether a short 2-day stay would act as a deterrent for more serious offenders -- the offenders who would be targeted for COP.

Mr. Gelb responded that the best available evidence stems from the District of Columbia where offenders were in fact impressed by a series of sanctions (e.g., 3 days in jury box to 7 days in jail). He further stated that it is an interesting question that we will soon learn more about as different counties in Maryland have selected different sanction schedules as part of the Break the Cycle program.

Judge McAuliffe then asked whether there were any objections to the proposition that legislation should be framed to empower a supervising authority to sanction offenders. Since there were no objections to Judge McAuliffe's query, he stated that it would be contained in the report as a recommendation.

Dr. Hunt presented simulation model results showing the number of persons who would be expected to participate in a COP program statewide if Option 2 were implemented (zone of discretion in conjunction with front-end sentencing). The numbers of COP participants as well as the expected prison bedspace savings were shown for three levels of COP utilization (25%, 50%, and 75%).

Judge McAuliffe questioned whether all person offenders should be excluded from participation from COP and wondered whether a contextual amendment to the guidelines might be adopted whereby judges would be permitted to use COP for person offenders without being counted as a departure.

Ms. McLendon asked about the interplay between state and local agencies since each local jurisdiction would not be able to support a system of programs separately.

Judge McAuliffe noted the prospect for state and county partnerships.

Dr. Hunt observed that whether a zone of discretion or categorical exception method of incorporating COP is adopted will have implications for the state and local partnership and therefore should be decided first.

Ms. Catterton asked whether decision-makers within COP possess a trump card -- in other words, whether they would be allowed to reject offenders who are sentenced to the program.

Mr. Gelb responded that given the voluntary guidelines, program decision-makers should be allowed to reject potential participants. He noted that program decision-makers may be just as likely to reject participants who they believe to present too low of a risk as too high of a risk.

Judge McAuliffe summarized the position of the Commission as follows: The Commission feels that some individuals should be identified and diverted to COP. He further perceived no reluctance to forming a separate correctional authority placed under the auspices of the Department of Public Safety and Correctional Services.

The discussion then turned to a letter from Chairman Vallario requesting the Commission to reconsider the seriousness category of Assault (1st and 2nd degree).

Judge Doory pointed out that the Commission had voted in the June meeting to allow the Judicial Conference to assign seriousness categories to offenses that had not yet been classified.

Ms. McLendon agreed that it is not appropriate for the Commission to reclassify a single offense at this point. If the Commission chooses to reclassify offenses, such reclassification should not be limited to this offense only.

Judge McAuliffe proposed that an alternative step would be to refer the letter to the group of judges that are currently classifying offenses, with the understanding that a permanent commission would later review all classifications. The proposal was approved.

The next topic of discussion related to methods of increasing judicial compliance with the sentencing guidelines.

One method of increasing compliance would be to record individual judicial sentencing patterns and assess whether individual judges are sentencing in compliance with the guidelines. While individual judicial sentencing patterns were recorded when the guidelines were first created, the practice was halted.

Judge Sonner noted that he had recorded judicial sentencing patterns for a period of time. Due to the small number of cases heard by some judges, it was hard to make sense of the data.

Mrs. Roper asserted that disclosure in the public's eye is extremely important. Public confidence is eroded if it appears that things are done behind closed doors.

Judge McAuliffe stated that one reason not to keep statistics on individual judicial sentencing patterns is due to the potential unfairness. For example, a judge may have a very good reason for sentencing outside of the guidelines, but such explanations are not included in summary statistics.

Judge Doory noted that while there is merit in the idea, it may be preferable to see if education and encouragement (in addition to the incorporation of COP) achieve increased judicial compliance first.

Mr. Gelb suggested that it may be possible to set a minimum threshold of cases beyond which a judge's record would be reported. For example, if judges hears more than X number of cases, then their sentencing record should be released. He also suggested that compliance to the guidelines could be measured as whether a particular sentence falls within the interquartile range.

Judge McAuliffe questioned whether Judge Doory's suggestion that judicial records be collected

downstream, if other methods of increasing compliance seemed to fail, was acceptable to the Commission.

Mrs. Roper stated that she would be able to accept the compromise within the context of increasing compliance and with the understanding that if these methods fail, judicial identification would become an option (perhaps under the purview of a permanent commission).

Judge McAuliffe noted that to date there have not been many attempts to increase compliance. When the sentencing guidelines were first instituted, judges knew what the target compliance level was. Since then, the bench has changed dramatically. As a result, there is a good chance that education and encouragement will be able to increase voluntary compliance.

Judge Wright stated that when he was appointed to the circuit court, only 1/2 hour was devoted to an explanation of the guidelines. In his opinion, guidelines training should take at least 1/2 a day and should be taught by the permanent commission.

Ms. Quattrocki suggested that judicial education could be coupled with some sort of internal oversight.

Ms. Catterton noted that when better data are captured regarding noncompliance, it may become apparent that some of the reasons for noncompliance are acceptable (e.g., noncompliance in drug cases may be due to the defendant's cooperation).

Judge Sonner observed that the dynamics of sentencing involve more than simply the judge. He asserted that prosecutors and defense attorneys need to be educated as well so that a greater number of sentencing outcomes are considered Win-Win outcomes.

Ms. McLendon questioned whether there is not an interim step. Could the Administrative Office of the Courts keep records of individual judicial practices for internal use only? We should not retreat from what might be the right thing to do.

Judge Doory proposed a motion to increase compliance which reads: "The Commission expects to increase judicial compliance with the sentencing guidelines by means of the following: (1) judicial monitoring of judges at the individual and county level by the chief judge of the court of appeals through the Administrative Office of the Courts; (2) judicial education and encouragement; and (3) judicial requirement to record the reasons for departure (using a checklist and open-ended response)."

The Commission voted on Judge Doory's motion. Seven members voted in favor of the motion. No member voted in opposition of the motion.

Judge McAuliffe scheduled a final Commission meeting on December 11th to review a draft of the final report.

Two final issues of discussion included whether the Commission should make any recommendations regarding mandatory minimum sentences and whether the Commission should make any recommendation regarding the parole release of individuals sentenced to life terms.

Judge McAuliffe suggested a possible recommendation with regard to the parole release of individuals sentenced to life terms. The Commission would recommend that the governor give individual consideration to all recommendations for parole for prisoners serving life sentences. Ms. Catterton incorporated the suggestion into a motion and it was seconded.

The Commission voted on the motion. The voice vote was unanimous in favor of the recommendation. Three members abstained from the vote (Chief Walter Chase, Secretary Simms, and Ms. McLendon).

After brief discussion, Judge McAuliffe deferred the topic of mandatory minimum sentences to the next Commission meeting.

The meeting was then adjourned.