



Minutes

Maryland State Commission on Criminal Sentencing Policy
2016 Public Comments Hearing
House of Delegates Office Building
Annapolis, MD 21041
December 13, 2016, 5:00 p.m.

Commission Members in Attendance:

Honorable Glenn T. Harrell, Jr., Chair
Honorable Shannon E. Avery, Vice-Chair
Delegate Curtis S. Anderson
Senator Robert G. Cassilly
William M. Davis, Esquire, *representing Public Defender Paul B. DeWolfe*
Honorable Brian L. DeLeonardo
Barbara Dorsey Domer
Elizabeth Embry, Esquire, *representing Attorney General Brian E. Frosh*
Richard A. Finci, Esquire
Brian D. Johnson, Ph.D.
Senator Delores G. Kelley
Honorable Patrice E. Lewis
Colonel William M. Pallozzi
Honorable James P. Salmon
Delegate Joseph F. Vallario, Jr.

Staff Members in Attendance:

Sarah Bowles
Stacy Najaka, Ph.D.
Katharine Pembroke
David Soulé, Ph.D.
Tessa Guiton, MSCCSP Intern

Speakers:

[REDACTED], *Maryland Resident*

The Public Comments Hearing began at 5:15 pm when Judge Harrell declared a quorum and called the meeting to order. Judge Harrell asked the Commissioners to introduce themselves and to note their affiliation. He then requested the first speaker to begin.



Note: The views expressed in the Public Hearing comments are those of the speaker(s) and do not reflect the official policy, position, or opinions of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP). The MSCCSP does not endorse the content of the comments, nor does it guarantee the accuracy, reliability, or completeness of the information.

[REDACTED], Maryland Resident

[REDACTED] read his written comments. He noted that while racial disparity is a factor in sentencing, more often the greater disparity is economic. Defendants that cannot afford any defense due to economic restrictions are more likely to be offered plea bargains or stiffer sentences than those who are financially able to afford defense services. He stated that this disenfranchised group of people often encompasses most people of color. He further noted that plea bargains often come with side effects for defendants, one of which is the pressure of being sentenced to a longer term if a plea bargain is not accepted. [REDACTED] suggested that if the State is willing to offer a plea bargain, there should be a stipulation in place preventing a defendant from being sentenced to more than that plea. Not only does this place pressure on the defendant to take a plea bargain, even if they are innocent, it also affects their long term ability to file any future motions. He stated that this often happens to individuals who are less educated, and mentally and emotionally challenged.

[REDACTED] expressed his respect for public defenders, but noted that they are often overloaded, and plea bargains are an inviting way to close many cases they are faced with. He further stated that their workload makes it impossible to devote the necessary time and financial resources to every defendant.

[REDACTED] then stressed that the public should not only be aware of sentencing policies concerning incarceration, but that they should also be aware of the programs that exist in our system to help educate and rehabilitate offenders, considering most offenders will re-enter society in a given amount of time.

He further noted that judges should have meaningful discretion and flexibility that is protected from public opinion, and suggested that judicial hearings be established at a lower level to allow for decisions to be reviewed at a later date.

[REDACTED] concluded his comments by expressing the need for a voice or representation on behalf of these populations, and noted that educating both the public and offenders is the key to moving forward. While everyone believes there must be a penalty or consequence for breaking the law, [REDACTED] stated the severity and duration of that penalty must be weighed by our system. He noted that Maryland focuses on rehabilitation rather than punishment, which suggests that there is redemption and hope for those in our criminal justice system. In closing, [REDACTED] stated that we have to protect the public, but when it comes to sentencing, it is important to remember there are groups of people who are disadvantaged.

Delegate Anderson expressed that [REDACTED] comments were extremely insightful.

Judge Harrell indicated that the MSCCSP is currently studying alternatives to incarceration and asked [REDACTED] for his input. [REDACTED] mentioned home monitoring as an alternative, but



stated he is not sure how effective it is. He also emphasized the importance of training public safety officials, as well as inmates re-entering society.

Senator Kelley noted that in addition to the work accomplished via the Justice Reinvestment Act, there are several members of the General Assembly still interested in tackling other aspects, specifically pre-trial, and that [REDACTED] remarks were apropos to some of these considerations. In particular, the recognition that often during the acceptance of pleas, people feel they have no other option. She noted that individuals, who are sometimes eventually found innocent, have accepted pleas as a way to avoid life without parole, for example.

Mr. Davis expressed his appreciation for [REDACTED] respect toward public defenders. However, he noted that while public defenders can unfortunately have daunting caseloads at times, he does not think it is fair to the people who are dedicated to public defense to suggest an attorney might recommend that someone take a plea bargain in order to lessen their caseload. Mr. Davis stated that there are many dedicated individuals in the public defender's office who work tirelessly to ensure that they have the necessary time to appropriately represent defendants.

[REDACTED] responded by stating that although he appreciates Mr. Davis' perspective, many people do not share the same perspective.

Senator Kelley agreed that public defenders work very hard, but many have two or three times the workload that we would consider the recommended maximum. They cannot do everything as well as they are trained to do or want to do when there is not a sufficient amount of time to spend on cases. She noted that it's going to take more resources to prevent some of the negatives consequences, as expressed by [REDACTED], from occurring.

Judge Harrell thanked [REDACTED] and asked if there were any additional speakers present who wished to address the Commission. Senator Kelley requested that the minutes acknowledge additional written testimony submitted by [REDACTED] despite his absence from the hearing. Copies of the submitted written comments are attached as an appendix to these minutes.

The Hearing concluded at 5:30 pm.



Appendix

Written Comments Submitted in Advance at the 2016 MSCCSP Public Comments Hearing

The views expressed in the Public Hearing testimony are those of the speaker(s) and do not reflect the official policy, position, or opinions of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP). The MSCCSP does not endorse the content of the comments, nor does it guarantee the accuracy, reliability or completeness of the information. Only testimony that was provided electronically to the MSCCSP is included.

**Comments Submitted by [REDACTED]**

My name is [REDACTED]. I am the author of several sensitivity training manuals for professionals in Corrections and Law Enforcement, and re-entry of inmates into society. I am currently working on a manual for presentation to Jr. and High School students.

Racial disparity in sentencing is a factor; but more often the greater disparity is economic. Those defendants that cannot afford any defense due to economic restrictions are more likely to be offered plea bargaining or stiffer sentences than those persons financially able to afford those services. This disenfranchised group of people often encompasses most people of color. Plea bargains often come with side effects for the defendants. One of them is the pressure of being sentenced to much longer terms if they do not take a plea bargain. There should be a stipulation that if the State is willing to make a plea bargain that defendant cannot be sentenced to more than that plea; unless there are mitigating circumstances. Not only does it place pressure on the defendant to take a plea bargain; even if they are innocent, it also affects their long term ability to file any future motions. This often happens to those persons less educated, and mentally or emotionally challenged. These are the most likely persons to have economic disparity.

I have great respect for our Public Defender officials. They are faced with the daunting task of scheduling their time and resources. They are often overloaded and plea bargains are an inviting closing to many cases they are faced with. The work load on this institution makes it impossible to devote the necessary time and financial resources to every defendant.

Not only should the public be aware of sentencing policies concerning incarceration, but also the programs in our systems to educate and rehabilitate those offenders. The fact of the matter is most of our offenders will reenter into society in a given amount of time. In the vast majority of cases this is inevitable. The public should understand this.

Judges should have the meaningful judicial discretion and flexibility; that is protected from public opinion. Judges decisions are based on the facts or lack thereof and are more likely to be fair and impartial. There should be a judicial hearing at a lower level to review these decisions at a later date for defendants.

There should be a voice or representation of the populations we are serving. Educating the public and offenders is the key to moving forward. When people break the law everyone believes that there must be consequences. The severity and duration of this payment must be weighed out by our system. Maryland focuses on rehabilitation rather than punishment. This suggests that we believe there is redemption and hope for those persons in our justice system.

Thank you for your time.

**Comments Submitted by [REDACTED]**

Note: [REDACTED] indicated that he would be unable to attend the public hearing and requested that the following comments be submitted in his absence. These comments were submitted via an e-mail sent to Dr. Soulé.

HELLO MY NAME IS [REDACTED] I AM WRITING ON BEHALF OF AND SUPPORT FOR MY BROTHER [REDACTED] AN INMATE SERVING A LIFE SENTENCE AT [REDACTED] I SUPPORT THE EFFORTS OF MAJR FIGHTING FOR THE RIGHTS OF MD INMATES MY BROTHER HAS BEEN INCARCERATED FOR OVER 40 YEARS HE HAS BEEN RECCOMENDED FOR PAROLE CURRENTLY IN [REDACTED] AWAITING A DECISION FROM THE GOVERNOR HE WAS RECCOMENDED ALSO IN THE PAST WAS AT PRERELEASE STATUS BEFORE THEN GOVERNOR GLENDENING'S DECISION TO DENY PAROLE FOR ALL LIFERS GOVERNOR HOGAN PROMISED DURING HIS CAMPAIGN RUN TO EXPEDIANTLY ADDRESS THE PAROLE SITUATION OF LIFERS IN MD THAT HAS NOT HAPPENED I DO BELIEVE THE GOVERNOR SHOULD BE EXCLUDED FROM THE PAROLE PROCESS AND THE PAROLE COMMISSION DECISIONS BE RESPECTED THE PAROLE SYSTEM AS IT IS CURRENTLY IS OUTDATED AND UNFAIR I WILL CONTINUE TO FOLLOW YOUR EFFORTS AND OFFER MY SUPPORT IN THIS EFFORT TO ASSIST MD LIFERS ELIGIBLE FOR PAROLE SINCE [REDACTED].