

**Maryland State Commission on Criminal Sentencing Policy
House Judiciary Committee Room
Lowe Office Building, Room 121
Annapolis, Maryland
February 4, 2002**

Commission Members in Attendance:

Russell P. Butler, Esquire; Honorable Arrie W. Davis;
Honorable Timothy J. Doory;
Robert Gibson for Stuart O. Simms;
Janis Judson, Ph.D.;
Honorable Delores Kelley;
Patrick Kent, Esquire for Stephen E. Harris, Esquire;
Arthur A. Marshall, Jr., Esquire;
Honorable Robert Riddle;
Barry L. Stanton;
Charles F. Wellford, Ph.D.

Staff Members in Attendance:

Michael Connelly, Ph.D.;
Greg Jones;
Lusungu Kayani;
Phil Laffey;
Haisha Thompson;
Kristi Waits

Visitors:

Carlos Fields, Governor's Office on Crime Control and Prevention;
Richard Rosenblatt, Director of the Patuxent Institution

1. Call to Order

Dr. Wellford, Acting Chair, called the meeting to order.

2. Roll Call and Declaration of Quorum

At the beginning of the meeting only nine Commission members were present. The meeting began and quorum was declared after the arrival of Commissioner Butler.

3. Approval of Minutes, December 2001 Meeting

Since quorum was not met at the beginning, the minutes were not approved until the end of the meeting.

4. Report from the Executive Director

Dr. Connelly welcomed the Commissioners and thanked them for their attendance. His first item of discussion was the meetings he and Judge Sonner attended for the Frederick Bar Association as well

as upcoming meetings with the Montgomery Bar Association and the Women's Bar Association. The purpose of these meeting was to address attendees' questions and concerns regarding Maryland sentencing guidelines. Dr. Connelly next discussed the most recent worksheet training sessions conducted by Commission staff members. Since the last meeting, staff members provided guidelines worksheet assistance to one group of individuals from the parole and probation office in Baltimore City. Dr. Connelly went on discuss the current status of the guidelines training video. On two separate occasions in January, Commissioners and staff members filmed segments for the video at the Judicial Training Center. The media department at the Center expects to have the video completed by the middle of March. Finally, Dr. Connelly introduced Lusungu Kayani, a double major in criminal justice and government and politics at the University of Maryland, who will work with the Commission as its first Delores G. Kelley Intern for the Spring 2002 semester.

5. Report on the Sex Offender Task Force Recommendations

Richard Rosenblatt, Director of the Patuxent Institution, gave a 30-minute presentation on the Joint Departmental Sex Offender Task Force' final report. Mr. Rosenblatt presented an overview of the report as well as task force recommendations. Overall, the task force provided recommendations on eight core issues:

1. Definition of the sex offender problem;
2. Delivery of treatment services;
3. Sex offender incarceration;
4. Interrelationship of psychopathy/sociopathy and sexual misconduct;
5. Community supervision of sex offenders;
6. Juvenile sex offenders;
7. Measures by other states; and
8. Victim advocacy.

6. Update on DPSCS Diminution Credit Report

Robert Gibson, Assistant Director of Research and Statistics for the Maryland Department of Public Safety and Correctional Services, presented a report on diminution credits. Copies of the report were handed out to each Commissioner for review and discussion at next meeting in May.

7. Update on Deliberative Focus Groups on Correctional Options

Dr. Connelly reported on two upcoming Deliberative Focus Groups in March with a church group in Prince George's County and with a graduate seminar at the University of Maryland. The purpose of which is to collect valuable information and feedback on corrections options programs from the public as well as serve the SCCSP's public education and confidence-building goals.

8. Proposal for Study of State Pre-Trial Services

Dr. Connelly discussed Delegate Vallario's interest in having the Commission prepare a report inventorying pre-trial services in other states. Since neither Delegate Vallario nor Judge Sonner were in attendance, the Commission decided to table the issue until both of the interested parties were able to discuss the study's purposes and uses.

9. Worksheet Workgroup Responses to Proposed Worksheet Changes

Dr. Connelly informed the Commission that the Worksheet Workgroup and others to whom the possible worksheet revisions (proposed at the last meeting) had been sent had emphatically rejected a

two-sheet form and were fairly neutral about a one-sheet, vertical form. However, in light of a memo from Chief Judge Murphy of the Maryland Court of Special Appeals recommending that a worksheet submission process with the portions to be completed by the defense counsel, the prosecutor, and the judge, Dr. Connelly will take the one-sheet, vertically-oriented form to the Sentencing Guidelines Subcommittee for recommendations, to occur with the COMAR updates in the summer.

10. Worksheet Issues

Dr. Connelly discussed some questions that have been raised over the past couple of weeks concerning select terms from the guidelines worksheet and/or manual. These terms included "usage" referenced in the Weapon Usage section of the manual and "adjudication of guilt" reference in the Prior Adult Criminal Record section. In addition, Dr. Connelly presented to the Commission a proposal to include an additional item on the worksheet that would signify the unidentifiable nature of an offender's race and/or ethnicity. He intends to submit these issues to the Sentencing Guidelines Subcommittee for action before the next full Commission meeting.

The most discussed worksheet issue at the meeting pertained to the term "adjudication of guilt" and how it should be determined when establishing a "major" or "minor" criminal record. Dr. Connelly described to the Commission the specifics of the case that had been brought to the office for advice by a defense counsel who attempted to solicit the Commission staff's authoritative views for his case. Ultimately, the Commission voted to tell staff not to provide any interpretations or information about common practices in pending cases and to refer all questions to the sentencing judge.

11. Update on the General Assembly's Proposed Legislation

Dr. Connelly reviewed a handout prepared by Phil Laffey that contained current proposed legislation for the 2002 session directly or indirectly related to sentencing guidelines. The table included the origin and sponsor of the bill, the bill's number, the article the proposed bill would affect, as well as a brief summary of the bill's contents.

Dr. Connelly pointed out to the Commission the re-submission of a bill by Senator Van Hollen to require published reporting of departures and sentences for all felony person offenses by individual sentencing judge. This led to a discussion of the role of the Commission in taking positions on pending legislation.

12. Discussion of Commission Role in Taking Positions on Legislation

After some discussion, the Commission decided that it should take explicit positions on bills directly affecting its operation. Agreeing that Senator Van Hollen's bill directly affects the Commission's operation, Dr. Connelly was asked to prepare a letter to be sent to relevant committee(s) stating its opposition to the bill and the reasons why. The Commission also endorsed generally, but no specific legislative proposals, the position discussed by Richard Rosenblatt wanting a distinction made in law and statistics gathering between physical child abuse and sexual child abuse. Patrick Kent opposed the item, on grounds that the Commission did not know what legislation it might be tied to. The Commission decided not to take positions on particular bills setting new or revising old penalties. As Delegate Dembrow was unable to attend the meeting, consideration of "reconsiderations" did not occur, and the Commission took no position on that issue.

13. New Business, Old Business, and Announcements

Dr. Connelly reviewed the Commission's testimony at the House Judiciary Committee by Judge Sonner regarding guidelines worksheets submission rates and the completion of the race and ethnicity portion of the worksheet. The

Commission has been asked to report back to the Committee with an update of the numbers at the end of March. Dr. Connelly also discussed the action by Chief Judges Bell and Murphy to remedy the situation, including Chief Judge Murphy's memo, discussed above. The Commission voted to have Judge Sonner send a letter of thanks to both judges for their expeditious and decisive action.

14. **Adjournment**

The meeting was adjourned at 5:55 p.m. after agreeing to have the next regularly scheduled meeting May 6, 2002.