

**Maryland State Commission on Criminal Sentencing Policy
Judiciary Training Center
Training Room 3
Annapolis, Maryland
March 1, 2004**

Commission Members in Attendance:

Judge Raymond Thieme, Chair
Russell P. Butler, Esquire
Honorable Timothy J. Doory
Richard A. Finci, Esquire
Robert Gibson
Patrick Kent, Esquire for Stephen E. Harris, Esquire
Chief Gary W. McLhinney
Honorable Robert Riddle
Secretary Mary Ann Saar
Honorable Joseph Vallario
Charles Wellford, PhD

Staff Members in Attendance:

Gary Locust
Haisha Thompson

University of Maryland Interns:

Alana Swords

Visitors in Attendance:

Claire Roone, House Judiciary Committee
Aaron Safford, Office of Academic Computing Services, University of Maryland
Twilah Shipley, Family Violence Council

1. Call to order

Judge Thieme called the meeting to order.

2. Roll call and declaration of quorum

The meeting began at 4:35 when quorum was reached and roll was taken.

- 3. Demo of Online Guidelines Submission Form** Aaron Safford, from the Office of Academic Computing Services at the University of Maryland, demonstrated how the online submission form would look and operate. There were to be two interfaces, one for whomever fills out the form prior to the judges signature and one for the judge. All users that would have access would be assigned by jurisdiction. Two benefits of the program was the ability to streamline the entry format of the worksheets in each jurisdiction and automated forms that had fields which must be filled-in would allow worksheets to be complete. Other concerns and suggested changes from the Commissioners were:

1. The 50% drop down box did not determine whether or not it qualified for the offense/offender case and could that field be programmed;
2. Monetary values associated with offenses could not be entered;
3. There should be a common ID, such as offender name or case number, that users could utilize to find an offender.
4. Various modifications of the worksheet entry form based on each jurisdiction;
5. Availability to defense attorney's;
6. Issue of multiple users, security, if and/or when changes could be made, and accuracy of the worksheet's information.

Additions that were suggested were an entering log, 'read only access', print capability, a line for who prepared the worksheet, and a signature line for the judge. It was suggested that when the prototype was further along, the subcommittee should have those that actually fill out the worksheets come in and look at the program to determine what other issues needs to be addressed to make it better.

4. Approval of minutes, March 1st meeting

The minutes were approved as submitted.

5. Discussion of Annual Report

The Annual Report was approved as submitted.

6. Sentencing Guidelines Subcommittee

A. Update of Doris Day Animal League Inquiry

Recommendation from Subcommittee:

That the Chair inform the League that their request requires legislative action and that their efforts should be so directed; and, that the Commission approve through COMAR the following classifications of offenses not previously classified:

- CR, Section 10-607 - three year penalty - Level VI
- CR, Section 10-608 - three year penalty - Level VI

Action/Decision:

The Commission accepted this recommendation.

B. Update of "Rap Sheets" Inquiry

Concerns/Comments:

- Was this request difficult to fulfill.
- What were the effects of giving incorrect data?
- Qualifiers should be placed on the data.
- Names would have to be expunged.
- If data does not exist because of practice, the advice of the courts suggests that the Commission does not have to make a special program to get a request completed.

Recommendation from Subcommittee:

That the Commission request a letter of advice from the Attorney General on this matter, and that they move as quickly as possible to develop and have approved a policy for release of data.

Action/Decision:

The Commission accepted this recommendation.

C. Update of Guidelines Error - Trademark Counterfeiting

Recommendation from Subcommittee:

That misdemeanor 611d be changed from a V to a VII and felony 611c be added as a level V offense through COMAR consistent with other like offenses.

Action/Decision:

The Commission accepted this recommendation.

D. Update of Domestic Violence Inquiry

Concerns/Comments:

- There is no uniformity among domestic violence units in the state to capture the relationship between victims and offenders.
- State's Attorney's Office is not keeping information on domestic relationships in assault cases and not consistently asking about it across the state.
- Is there a standard as to whether or not the victim would be entitled to a protective order?
- The subcommittee needs to find data that would indicate that there is a disparity because this question is not being asked and whether it is necessary to be added at this time.
- There should be some guidelines to base other requests for additional worksheet fields.
- The Commission should establish a subcommittee to address requests for additional worksheet fields.
- If relative issues in a case such as domestic violence can ultimately affect sentencing, shouldn't the Commission monitor this?
- Is this request addressed in our mandate?

Recommendation of Subcommittee: Direct staff should work with Ms. Shipley and Ms. Golumb to further develop this proposal for consideration by the Committee.

Action/Decision: The Commission accepted this recommendation. There will be a small project to collect data that would indicate the level of disparity.

E. Discussion of House Bill 918

Concerns/Comments:

- House Bill 918 is too broad.
- There is no necessity in collecting the information listed in House Bill 918 to successfully fulfill the duties of the Commission.

Recommendation of Subcommittee:

Prior to the next meeting, the Committee requests the Chair to seek clarification from the Governor's Legislative Office regarding if and how the Commission can comment within their authority on legislative matters.

Action/Decision: The Commission cannot support the bill and does not believe that it is a required duty.

F. Discussion of House Bill 984

Concerns/Comments:

- House Bill 984 would not require judges names, but would indicate how many complied.
- Didn't the Commission discuss this issue already and decide that this was impossible?
- This bill would change the status and purpose of the Commission.
- The Commission should fight this because it would appear as forcing judges to comply and in turn cause them to stop complying with the guidelines.
- Why does this bill work in other states and why it would not work in Maryland.

Recommendation: The Commission should send a letter to a representative of the Governor stating the opposition to House Bill 984 and requiring notification if this action is not acceptable.

Action/Decision:

The Commission is against House Bill 984 and will notify the Governor.

G. Discussion of Cell Ranges Project

Concerns/Comments:

- Overall, ABA pleas and corrections options help to increase compliance rates above 65%.
- If the Commission accepts ABA and corrections options, then the cell matrices would not have to be changed to increase compliance.
- Is there a system that would justify cell changes and if not, how can one be established that the Commission would agree on?
- The issue may be that putting everyone with a drug problem in jail may not be solving things, but may be a real problem for compliance.

Recommendation:

The Commission should collect data on drugs that indicates what the actual sentencing trends are and what the 2/3 compliance rate would look like in each cell as they are now. Additionally, what would the guidelines range actually have to be to get the desired compliance rates.

Action/Decision:

The Commission agreed to comply with the inclusion of ABA and Corrections Options until the data for drugs is compiled and looked at.

7. Update of Executive Director Search

So far there have been eight responses for the executive director position. Shortly after March 5th, a small group needs to review the applicants and give a recommendation to Chair Thieme.

8. Discussion of Budget Status

The recommended budget for the Commission was passed at the hearing without any questions or objections.

9. Update of Commission Policy on Release of Data

Comments/Concerns:

By law, the Commission has to inform the requester within 10 days if their request will or will not be fulfilled and why. If the Commission agrees to grant the request, they must provide the data within 30 days.

Action/Decision:

The Commission decided to table the issue until the next meeting, which would allow them time to receive a response from the Attorney General regarding this matter.

10. Announcements and Adjournment

The next meeting was set for Monday June 7th at 4:00 in Annapolis at the Judiciary Training Center.