

Maryland State Commission on Criminal Sentencing Policy
House Judiciary Committee Room
Low Office Building, Room 121
Annapolis, Maryland
April 17, 2000

Commission Members in Attendance:

Butler
Chasanow
Kelley
Marshall
McLendon
Sonner
Stanton
Themelis
Amy Brennan for Commissioner Harris
Robert Gibson for Secretary Simms

Staff Members in Attendance:

Michael Connelly
Claire Souryal-Shriver

Visitors:

Ted Wieseman, State Public Defender's Office
Jerome Rauch, Staff person for Delegate Salima Siler Marriott
Sally Marker, Governor's Office of Crime Control and Prevention

Judge Sonner called the meeting to order and, following a tally, declared a quorum. Senator Kelley moved for adoption of the minutes of the February 2000 meeting, which were approved by unanimous consent.

Dr. Connelly gave the Executive Director's report. He announced that (1) staff offices were moving up one flight to the third floor in the College Park Professional Center, (2) budgeting for FY 2000 and FY 2001 was on track, although staff had not received news on the pending BJA application, and (3) the four open staff positions should be filled by the June 2000 meeting. He also noted that he had presented for or met with several groups, individuals, and hearings since the February 2000 retreat.

Dr. Connelly reported that staff are in the process of obtaining authorization by the Administrative Office of the Courts for full access to court data and that arrangements are being made with the State Archives to upgrade the Commission website. He asked the Commission's preference for a date for adoption of the new sentencing guidelines worksheet, and the Commission indicated October 1, 2000.

Dr. Connelly noted materials for the August meeting of the National Association of Sentencing Commissions (NASC) and asked that Commissioners wanting to attend contact him. He further pointed out in the materials a letter from Mrs. Roberta Roper to Chief Judge Bell and Judge Bell's response concerning application of the legislated requirement for sentencing judges to announce the minimum sentence to be served by convicted offenders. Dr. Connelly also noted several research-related materials in the Commission

packet.

Dr. Connelly updated the Commission on bills in the 2000 legislative session concerning (1) assignment to incarceration as a condition of probation and (2) creation of a Corrections Options Authority with state and local partnerships; both bills failed. He then asked the Commission's preference for a date for the legislatively mandated annual public meeting; the Commission decided two or three weeks before the Commission meeting prior to the presentation of the COMAR recommendations to the legislature's AELR Committee. Finally, he reviewed results of the recent survey of NASC members on their states' treatment of issues coming before the Commission concerning due process, equal protection, and sentence reconsideration. He asked Commissioners to let him know any new questions to be asked in the next planned NASC survey.

In subcommittee reports, Judge Chasanow recommended that development of the Commission's proposed policy statement on compliance not be submitted to the Compliance subcommittee but be referred instead to a specially created subcommittee. Dr. Connelly indicated that he would follow up on a possible chair and other members.

Commissioner Stanton reported on the work of the Corrections Options subcommittee, particularly regarding development of recommendations on a Corrections Options Authority and state/local partnerships for service and treatment provision. The Commission directed the subcommittee to bring together expected practitioners in a Corrections Options program to consider possible financial and implementation concerns and to have a plan for the program developed by September.

As requested by the Sentencing Guidelines subcommittee, Dr. Souryal-Shriver reported on current and proposed components of the sentencing data base derived from sentencing guidelines worksheets. After review of the worksheets, the Commission recommended further revision, especially concerning the types of pleas which will be indicated on the worksheets.

The Commission recommended that Dr. Souryal-Shriver, Commissioner Butler, and Amy Brennan of the State Public Defender's Office serve as an ad hoc committee to make recommendations to the state Article 27 Committee regarding possible revision of assignments of seriousness levels to existing offenses.

The Commission recommended sending out the existing draft of the COMAR proposal as formed by the Sentencing Guidelines subcommittee to judges, prosecutors, public defenders, and the defense bar for comment and input. The proposal as disseminated will not include the relevant matrices or tables at this point. Judge Themelis raised the question of the Commission's authority to apply Freedom of Information Act criteria to the confidentiality of information received from sentencing guidelines worksheets as it relates to individual judges' compliance therewith. Dr. Connelly indicated that a discussion of the topic with the Commission's advisor in the Office of the Attorney General concluded that, without explicit statutory authorization, the Commission could not make data in the worksheets and data sets confidential. In review of Table B-2 of proposed assignments of seriousness levels to new and unassigned offenses, the Commission voted to make offense 3B (manufacture, distribution, etc., of CDS on school grounds or vehicles) a Level III offense.

The Commission asked that staff send copies of proposals by the Sentencing Guidelines subcommittee assigning seriousness categories to new and unassigned offenses to all Commissioners for consideration and for discussion and vote at a special Commission meeting, May 8, 2000.

Judge Sonner asked for other announcements and, receiving none, called for adjournment, with consent.