

Maryland State Commission on Criminal Sentencing Policy
House Judiciary Committee Room
Lowe Office Building
Annapolis, Maryland
May 8, 2000

Commission Members in Attendance:

Butler
Curran
Davis
Doory
Iamele
Kelley
Marshall
McLendon
Mitchell, D.
Sonner
Stanton
Themelis
Wellford
Ted Wieseman for Commissioner Harris
Robert Gibson for Secretary Simms

Staff Members in Attendance:

Michael Connelly

Judge Sonner called the meeting to order and had Dr. Connelly call the roll. Having established a quorum, Judge Sonner received from Senator Kelley a motion for adoption of the minutes of the April 2000 meeting, which were approved by unanimous consent.

Dr. Connelly gave the Executive Director's report. He noted items in the meeting packet, including the revised membership directory, and announced that three people had been hired as staff, to be introduced at the June meeting. He announced that he had met with staff of the state Alternative Dispute Resolution agency concerning possible applications of ADR to corrections options; he also said that, unless Commissioners disapproved, staff would pursue possible research to determine if enough mediable felony offenses existed at the circuit court level to justify extension of ADR into current corrections options consideration.

Dr. Connelly informed the Commission of coming staff meetings with the state Conference of Circuit Judges, officials of the state Division of Parole & Probation, and Senator Van Hollen, as well as his and Senator Kelley's upcoming participation in an NIJ sentencing conference in June. He further noted proposed contracting to upgrade the Commission web site and also the investigation of a Montgomery County newspaper into the current sentencing practices of individual judges. The Commission reaffirmed its intent not to address the latter issue at this time.

Under Sentencing Guidelines consideration, Dr. Wellford informed the Commission that the Sentencing

Guidelines Subcommittee had reaffirmed that the guidelines were voluntary and not to be patterned after the federal system. Judge Themelis had raised the issue before the Sentencing Guidelines Subcommittee and argued that the guidelines should be completely descriptive. Dr. Wellford stated that the voluntary guidelines were to be guided by the past experiences of judges as the first grounds for sentencing recommendations and then by general principles previously developed by the Commission and by the legislature, such as concerns for prison capacity or corrections options. The Commission agreed with Dr. Wellford's summary of guiding principles. Senator Kelley noted that the previous Sentencing Commission had carefully distinguished between descriptive, prescriptive, and presumptive guidelines and had pushed for descriptive guidelines influenced prescriptively by key general principles, as Dr. Wellford had described. Commissioner McLendon agreed with Senator Kelley that the voice of the guidelines was greater than simply descriptive.

The Commission accepted by consensus the Table B-1 of offense level classifications of new and unassigned existing offenses as recommended by the Sentencing Guidelines Subcommittee. It then moved to deliberation and vote on the offenses in Table B-2 on which the subcommittee had not reached consensus. The actions taken on each offense are detailed below:

Unassigned Offenses	Speaking on:	Motion on Seriousness Level	Vote
5B	Brennan, McLendon, Butler, Curran, Vallario, Iamele, Doory	V VI	6-7 8-5
26B		VI	voice
27B	Brennan, Butler, McLendon	V	voice
36B	Butler, Brennan	VI	voice
42B		V	consensus
51B	McLendon, Kelley, Mitchell	VII	voice
55B	Brennan, Mitchell, Vallario, Kelley	II	voice
57B		VII	consensus
59B		VII	consensus
65B	Butler, Kelley, McLendon, Brennan	VI, made Aperson@	voice
66B		VI, made Aperson@	voice
76B		VII	consensus
79B	Butler, Brennan, Iamele, McLendon	III, made Aperson@	voice

84B	McLendon, Butler	VII	8-5
85B		VII	consensus
88B		VII	consensus
103B	Butler, Brennan, Doory	III, made Aperson@	voice
105B		VII	consensus

The Commission agreed that Table B-2, as revised after the votes, should be added to Tables A and B-1 for dissemination for feedback from state practitioners (judges, prosecutors, public defenders, defense bar). Senator Kelley recommended that the dissemination include a cover letter explaining that the resulting Table was preliminary and would receive continuing work by the Commission on offenses needing correction or revision and offenses to be recommended to the Article 27 Committee for reconsideration of offense levels.

Under New Business, Commissioner Butler recommended that continued Commission review of offenses include consideration of proper offense designation into Aperson@ or Aproperty@ categories. Dr. Connelly noted that Sentencing Guidelines Subcommittee members had received with their packets of materials a table of existing offenses to be reconsidered. Dr. Connelly then verified that the next Commission meeting would be at the regularly scheduled June 5 date, pending action by the Sentencing Guidelines Subcommittee.

Without objection, Judge Sonner adjourned the meeting.