

**Maryland State Commission on Criminal Sentencing Policy**  
**August 29, 1996**

**Commission Members in Attendance:**

Judge John McAuliffe  
Judith Catterton  
Roberta Roper  
Walter Chase, Sr.  
Dr. Charles Wellford  
LaMonte Cooke  
Sen. Delores G. Kelley  
Sen. F. Vernon Boozer  
Sen. Christopher McCabe  
Del. Joseph Vallario, Jr.  
Del. Kenneth Montague Jr.  
Judge Howard Chasanow  
Judge Joseph H.H. Kaplan  
Judge Alexander Wright  
Stephen Harris  
Bishop Robinson  
Adam Gelb, Carolyn Quattrocki

**Background**

The Maryland Commission on Criminal Sentencing Policy was established to evaluate the sentencing, correctional laws and policies and reduce disparities and inequity in sentencing. The commission continues to meet in an effort to produce a report by September, 1997 for consideration by the Governor and the Legislature.

**Purpose of Meeting**

The goal of this meeting is to define structured sentencing, observe other states' practices and to determine alternatives to sentencing policies. Representatives from a variety of sectors within the criminal justice system will assist in informing the commission.

**Immediate Financial Challenges**

The commission has received a \$150,000 Byrne Memorial Grant and funding from the General Assembly and the National Institute of Corrections. Judge McAuliffe has met with Ken Shoen and Judy Greene from the Edna McConnell Clark Foundation and they may be able to help with funding also.

**Agenda Items/Discussion Topics**

- Overview of National Association of Sentencing Commissions Conference
- History of Maryland Sentencing Guidelines and Data Collection
- Establish New Sentencing Guidelines
- Public Perception

- Data Collection
- Guideline Models
- Maryland's Current Correctional Services
- Maryland Parole Commission

## **National Association Of Sentencing Commission Conference - Judge Alexander Wright, Jr.**

### A. Concerns About Structured Sentencing

Judge Alexander Wright, Jr. attended the conference and reported that many of the 27 states participating in the conference had to address the following issues before creating guidelines:

- Whether guidelines should be voluntary or mandatory
- The effect on the Attorney General's office and number of appeals
- How will structured sentencing affect judges discretion\*
- Resources/Expenses for alternatives to incarceration

### B. Prison Crowding

A portion of North Carolina's prison population was being housed in facilities out-of-state and other offenders were serving as little as 1/5 of their sentence before being released. After establishing sentencing guidelines, North Carolina will be able to house all prisoner in-state by the year 2002 and offenders will serve longer portions of their sentences.

### C. Alternatives to Incarceration

Delaware has established several levels of intermediate sanctions, listed below. Many are used by Maryland, but not state-wide.

- Fines/restitution and unsupervised probation
- Suspended sentences and probation
- Probation with day reporting
- Home detention
- Halfway house/residential center

Secretary Bishop Robinson reported that Baltimore utilizes residential centers but offenders must pay for all of their expenses. No financial assistance is offered and many offenders can not afford it. Lack of resources can severely limit many sentencing alternatives.

### D. Judges' Discretion

Senior judges in North Carolina were reluctant to try structured sentencing but newer judges felt they could adapt to a new system. The guidelines actually gave judges more power because under the current system, offenders were being released due to prison crowding, despite the sentence imposed by the judge. Intermediate sanctions particularly, daily reporting, were also implemented in areas that had more probation and parole officers.

### E. Sentencing Guidelines, the Public and the Media

The commission in North Carolina utilized the media to inform the public about the changes in sentencing. Pamphlets were distributed explaining the difference between the old and the new system and why guidelines were desirable. Meetings were held and the commission also worked with the daily and weekly

newspapers as well as talk radio.

## **History Of Sentencing Guidelines In Maryland - Judge Joseph H.H. Kaplan & George Weber, AOC**

### **A. Background**

Maryland established voluntary guidelines in 1981 for the circuit courts based on judges' past sentencing. The guidelines were implemented to eliminate disparities in sentencing; prison crowding was not an issue at the time. A board of experienced judges created "descriptive guidelines" for drug offenders, and violent and non-violent offenders on the basis of their knowledge and statutory regulations. The guidelines were reviewed every three years to determine whether two-thirds of judges were sentencing according to the guidelines. (A two-thirds compliance rate was based on a national trend.) Sentences were then lowered or raised in order to achieve two-thirds compliance based on judges' actual sentencing patterns. Recently, Judge Murphy suspended new proposed revisions after The Washington Post reported that the sentence for first-degree murder and rape had been lowered. George Weber said, The Post's allegations were incorrect.

### **B. Existing Guidelines**

Judges complete a sentencing sheet that includes basic information (name, address, race, age), details of the case and the determined sentence. Judges are asked to list a reason if they do not impose the suggested sentence. This information is recorded on paper and entered into a database by AOC. The last proposed revisions in 1994, suggested 18 cells be lowered and 14 cells raised. The lower cells indicate a more serious crime, the higher cells, non-violent crimes.

## **Establishing New Sentencing Guidelines**

### **A. Small Counties vs. Large Counties**

Carolyn Quattrocki expressed the concern of Charles County and other rural areas that guidelines will not reflect state-wide decisions. Rural areas tend to be more strict in their sentencing and impose harsher sentences than larger counties for similar crimes. Kaplan said, that sentences are created based on data collected from all counties. Larger areas have more caseloads so their sentencing practices will be represented more than smaller counties.

### **B. Accuracy of Data Collection**

Judge McAuliffe suggested collecting data for the actual time served, not the sentence imposed, for all offenders in all counties. The current system was based on the sentence given by the judge.

Secretary Robinson reminded the commission that the data collected should be an "actual" time served analysis and not "average" time served.

### **C. Determining Guidelines**

Each state considers a number of different factors for determining an offender's position on the matrix. Maryland's system assigns a number to the following factors to determine an offender's score:

- Relationship to system when offense occurred
- Juvenile record
- Prior Adult Criminal record
- Prior Adult Parole/Probation Violation

This is cross-listed with an offense score, determined by the following factors:

- Seriousness of offense
- Victim injury
- Weapon used
- Vulnerability of the victim

Offender score and offense score are used to determine sentences for crimes against persons. Only offense scores are used for crimes against property and drug crimes. Multiple count crimes are determined by taking the highest minimum sentence and the highest maximum sentence. If judges depart from the guidelines they are asked to give a reason.

#### D. Reasons for Non-Compliance

- Overcrowding
- Special caseload - Baltimore City agrees to probation for first-time arrests for possession because they are the majority of cases

There should be leeway to distinguish between cases with aggravating and mitigating factors.

#### **Public Perception - Dr. Charles Wellford**

- Maryland police received high scores.
- Courts approval rates are quickly decreasing (less than 1/4 of the public said the courts are doing a good or excellent job).
- The public does not believe that crime can be solved by building new prisons.
- Sentences are thought to be literal, or truth-in-sentencing.
- Intermediate sanctions are favored. More than 70 percent of the public said first time drug user offenders should receive treatment.

#### **Guideline Model: Descriptive Vs. Prescriptive - Sandra Shane-Dubow**

##### A. Descriptive

Wisconsin's sentencing commission was abolished about two years ago due to budget cuts and their prison population has shown a marked increase. Their structured sentencing policy was established to:

- Promote goals of fair-handed and even sentencing
- Encourage proportionality of sanctions
- Reduce the influence of extra-legal factors in sentencing (racial and gender disparities, differences in sentencing offenders who plead vs. trial)

##### B. Prescriptive

Minnesota has based their system on mandatory sentencing. Sanctions were increased for violent offenders and decreased for property offenders. Non-adherence to the guidelines is a basis for appeal by a defendant. Less than 1 percent of caseloads go on appeal and there has been no substantial slow down of the cases courts hear.

#### **Current Correctional Services In Maryland - Secretary Bishop Robinson**

##### A. Background

Home detention, boot camps and other types of intermediate sanctions have reduced the prison population but there are still offenders serving 1 year or less occupying 1,000 prison beds. About 60 percent of offenders are serving two years or less. Secretary Robinson suggested that the state utilize its drug courts, since they are a majority of the cases. There are currently 345 offenders in the drug court program and their recidivism rate is 50% lower if they finish the program.

## B. Resources

Baltimore City Central Booking and Intake will be featured at the SEARCH International Conference. The new site has expedited the arrest procedure but Secretary Robinson would also like to be able to hold hearings at the site in the near future. This would require upgrading the computer system and linking it with other counties, allowing searches for outstanding warrants on offenders arrested for new crime to be conducted.

The facility in Patuxent uses 50 agents to support its home detention program. Offenders wear leg bracelets that are electronically connected to the site. They are not allowed outside and agents can visit the home of an offender at any time. Voice checks via telephone are conducted frequently by a computer that determines whether the voice on the telephone matches of the offender's voice. Any violation results in incarceration. It costs \$18 per day per offender for home detention and \$44 per day per offender for jail.

## C. Economic Effects on the Current System

Most of Baltimore City offenders have committed petty crimes. There are 65,000 arrests every year for these offenses, which will eventually translate into the majority of 15-34 year-olds being incarcerated. These crimes drive away businesses and deter business growth.

## D. Prison Population

- The rate of prisoners being released on mandatory release dates far exceeds the population being paroled.
- Maryland has the sixth lowest growth rate in the nation for its prison population.
- It is not the number of people being sentenced that backs up the system but how long they are sentenced.
- Maryland's cost per prisoner is \$18,000, considerably less than other states.
- The state's facilities do not have mental wards/hospitals but it may become necessary to build them in the near future.
- Drug treatment should extend through parole.
- 3,400 high risk offenders are expected to enter the system in 1998.

## E. Recommendations

- Long-term treatment is needed for many offenders instead of incarceration.
- Establishing an automated information system is extremely important for success.
- Baltimore City will be linked with 13 counties through automated booking if the department receives a requested grant.
- Roberta Roper suggested they set up their system similar to the one established for victims, VINE (Victim Information Notification Everyday).
- Community courts for low level offenders.
- Academic technical program so offenders have marketable skills when they are released.

**Parole - Paul Davis, Chairman of Maryland Parole Board**

## A. Purpose

- Boards are changed with reviewing all prisoners sentenced to six months or more who have parole eligibility. The Board will also consider medical parole, but offenders are close to death before they come before the board.
- In no death occurred during the offense and a life sentence was not imposed, hearing officers hear the case and make recommendations to a parole commission member who makes the final decision.
- If a homicide has occurred, two commission members must hear the case and determine whether or not to parole the offender.
- The board also monitors anyone who is released from state prison with any portion of their sentence left to serve.
- The board investigates possible clemency cases for the governor and makes recommendations.

## B. Should there be good time\*

- Often inmates incarcerated for non-violent crime are actually violent and will remain institutionalized longer because they do not earn good time. Offenders convicted of violent crime have lower recidivism rates, and should earn good behavior time if they are well-behaved in prison.
- Adam Gelb said, it's the carrot that leads the horse to water.

## C. Suggestion

- Keep parole. It allows for a sliver or mercy for unusual cases.

## **Final Business**

The next meeting will be held on September 12 at the Statehouse.