

**Maryland State Commission on Criminal Sentencing Policy**

House Office Building

Annapolis, MD 21041

September 23, 2008

MINUTES**Commission Members in Attendance:**

Charles F. Wellford, Ph.D., acting chairman

James V. Anthenelli, Esquire

Shannon E. Avery, Esquire, *representing Secretary Gary D. Maynard*

Chief Marcus L. Brown

Leonard C. Collins, Jr., Esquire

Major Bernard B. Foster, Sr.

Senator Delores G. Kelley

Patrick Kent, Esquire, *representing Nancy S. Forster, Esquire*

Laura L. Martin, Esquire

Honorable John P. Morrissey

Kate O'Donnell, Esquire, *representing Attorney General Douglas Gansler*

Delegate Joseph F. Vallario, Jr.

Staff Members in Attendance:

Jessica Rider

Stacy Skroban Najaka, Ph.D.

David Soulé, Ph.D.

Karlyn Sweetman

Visitors:**1. Call to order**

Dr. Wellford, acting chairman, called the meeting to order.

2. Roll call and declaration of quorum

The meeting began at 5:05 p.m. when quorum was reached.

3. Approval of minutes, July 8, 2008 meeting

The minutes were approved as submitted.

4. Report from the Executive Director – Dr. David Soulé

Dr. Soulé began by introducing Karlyn Sweetman. Ms. Sweetman began work as the staff policy analyst in August 2008. Ms. Sweetman is a third year law student at the University of Maryland School of Law and will work with both the Guidelines Subcommittee and the Drug Offender Subcommittee. Dr. Soulé also reminded the Commission of a previous discussion regarding an op-ed in the *Washington Post* on dual sentencing procedures written by Judge Nichols, Prince George's County. The Commission decided to extend an invitation to Judge



Nichols to speak at a Commission meeting on this topic. Judge Nichols has accepted the Commission's invitation and will attend the December 9th meeting. Dr. Soulé also thanked the Commission for their support and positive feedback regarding Maryland serving as the host for the National Association of Sentencing Commissions (NASC) 2009 annual conference. The conference will be held in Baltimore August 2 – 4, 2009. Dr. Soulé indicated that he will keep the Commission members informed regarding the conference planning process.

5. Report from the Guidelines Subcommittee – Dr. Charles Wellford

Dr. Wellford presented the report of the Guidelines Subcommittee. The Subcommittee and the Commission staff continued to review the guidelines to identify any anomalies or issues that should be brought to the Commission's attention. In doing so, Commission staff identified that among the offenses listed under the "Destructive Devices" category, three were categorized as person offenses and six were categorized as property offenses which is inconsistent with the Commission's goal of categorizing like offenses similarly. The Subcommittee did question the original classification, but was unsure of any particular reason why those six offenses were classified as property offenses. The categorization of any Public Safety Article offense as a property offense seems to be inconsistent. Public Safety Article, Title 11 is titled "Explosives". The Subcommittee thought it was inconsistent to have some Title 11 offenses categorized as person offenses and others as property offenses. By definition in the guidelines manual, an offense involving a weapon is considered a person offense and the Guidelines Manual specifically instructs that explosives are the same as firearms. Accordingly, the Subcommittee recommended the six offenses listed under the "Destructive Devices" category currently classified as property offenses be reclassified to person offenses.

A vote was called to reclassify the six offenses listed under the "Destructive Devices" category as property offenses to person offenses. The motion passed 8-1.

6. Report from the Subcommittee on Sentencing Drug Offenders – Dr. David Soulé

Dr. Soulé presented the report of the Subcommittee on Sentencing Drug Offenders. The Subcommittee decided that one of their initial tasks should be to update the inventory of corrections options available in the state of Maryland, previously completed by Commission staff in 2006. The Subcommittee has developed a draft survey instrument that Subcommittee members will take back to their jurisdictions in order to ask administrative judges about the types of programs available in their jurisdiction.

The survey is similar to the 2006 survey with some key updates. The survey will gather information about what type of drug treatment programs are available in each jurisdiction and the target population. Questions were added that are aimed at gathering information regarding eligibility requirements for participants in those programs. It is the hope of the Subcommittee that the survey will provide more detailed information on the target population of these programs (e.g. violent versus non-violent offenders or the level of drug offenders). The Subcommittee also added a question to determine if there are any monetary requirements that may inhibit participation in a program. Additionally, the Subcommittee decided to collect information regarding whether any program evaluations have been done.



Dr. Wellford asked if the Subcommittee had developed a timeline for the survey, particularly when the Subcommittee would like to hear back from those participating in the survey. Dr. Soulé indicated that the Subcommittee plans on reviewing the survey during the next teleconference and would then proceed to distribute and administer the survey as soon as possible.

Mr. Kent presented a nationwide statutory review of criminal penalties for controlled dangerous substance (CDS) offenses completed by Lori Albin, director of legislation for the Office of the Public Defender. Ms. Albin's review indicates that all but two states make a penalty distinction based on the weight of CDS involved in the offense. Mr. Kent asked Dr. Soulé to share this document with the Subcommittee on Sentencing Drug Offenders. (Note: The Commission staff contacted Ms. Albin after the meeting to request an electronic copy of the statutory review. Ms. Albin indicated she would be happy to provide an electronic copy for the Subcommittee members, but she requested time to update the review before it would be distributed.)

7. Date, time, and location for the next Commission Meeting

The next meeting was set for Tuesday, December 9, 2008 at 5:30 p.m. at the Judiciary Training Center in Annapolis, MD. The Commission will provide dinner and it will be made available starting at 5:00 p.m.

8. Old Business

There was no old business to address.

9. New Business and announcements

There was neither new business nor announcements. Dr. Wellford informed the Commission that there were no pre-registered speakers for the Public Comments Hearing. The Commission was directed to reconvene after dinner at 6:30 pm for the Public Comments Hearing.

10. Adjournment

The meeting adjourned at 5:35 p.m.