



Maryland State Commission on Criminal Sentencing Policy
2010 Public Comments Hearing
House Office Building
Annapolis, MD 21041
December 14, 2010, 6:15 p.m.

Minutes

Commission Members in Attendance:

Honorable Howard S. Chasanow, Chair
Delegate Curt S. Anderson
Joseph I. Cassilly, Esquire
Honorable Arrie W. Davis
William Davis, Esquire, *representing Public Defender Paul B. DeWolfe*
Paul F. Enzinna, Esquire
Richard A. Finci, Esquire
Major Bernard B. Foster, Sr.
Senator Delores G. Kelley
Laura L. Martin, Esquire
Secretary Gary D. Maynard
Honorable John P. Morrissey
Honorable Alfred Nance
Kate O'Donnell, Esquire, *representing Attorney General Douglas Gansler*
Delegate Joseph F. Vallario, Jr.
Charles F. Wellford, Ph.D.

Staff Members in Attendance:

Stacy Skroban Najaka, Ph.D.
David Soulé, Ph.D.

Speakers:

Russell Butler, Executive Director, Maryland Crime Victims' Resource Center, Inc.
[REDACTED] Resident, Prince George's County, Maryland
Lt. Col. George R. Hardinger, Warden, Carroll County Detention Center and President, Maryland Correctional Administrators Association
Anne Marie Litecky, State Victim Services Coordinator, Governor's Office of Crime Control & Prevention and Maryland State Board of Victim Services
Captain Michael Merican, Warden, St. Mary's County Detention Center
[REDACTED], Member, Maryland State Board of Victim Services.

Other Visitors:

Joanna Diamond, Legislative Associate, American Civil Liberties Union
Linda Forsyth, Legislative and Community Liaison for Senator Kelley
[REDACTED], mother of offender serving life sentence
Robert Johnson, Department of Public Safety and Correctional Services
Claire Rossmark, Department of Legislative Services



The Public Comments Hearing began at 6:15 p.m. when Judge Chasanow called the hearing to order. He explained that the Public Comments Hearing is held annually to provide an opportunity for the public to bring issues before the Commission. Judge Chasanow noted that the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) was created in 1999 to oversee sentencing policy and to monitor the state's voluntary sentencing guidelines. He acknowledged that a number of speakers were planning to address topics other than the sentencing guidelines, and he noted that the Commission welcomed hearing from those speakers. That said, Judge Chasanow pointed out that the Commission's mandate pertains primarily to the sentencing guidelines. As a result, the MSCCSP does not have any direct control over judicial discretion, other than monitoring judicial compliance with the guidelines. Judge Chasanow then welcomed the speakers to the podium in the order in which they signed up.

██████████ *Resident, Prince George's County, Maryland.*

██████████ addressed the Commission on what she believes are the three most prevalent unintended consequences of the Maryland sentencing guidelines: "a corrosive influence of prejudicial conduct by judges, ambiguous language that sends conflicting messages to the public, and the guidelines are not effective." ██████████ expressed particular concern over sentencing disparity in Maryland, noting that the guidelines are voluntary and judges may sentence outside of guidelines. She also expressed concern that the MSCCSP does not have the authority to enforce the guidelines or sentencing policy. ██████████ drew attention to a case where the judge sentenced the defendant above the recommended guidelines range and then failed to inform the defendant of the amount of time he must serve before becoming eligible for parole.

Senator Kelley thanked ██████████ for her remarks. She noted that the scope of responsibility of the Commission is the result of legislation. The MSCCSP is a statutorily created body with a limited scope. Senator Kelley also pointed out that a Study Commission worked for two years to determine how to set up Maryland's guidelines, and after careful consideration, decided on a voluntary system. Finally, Senator Kelley noted that if ██████████ believes a judge is violating a mandate by statute or by rule, she should go to the Judicial Disabilities Commission with her concerns. The MSCCSP has limited tools to address the issues brought by ██████████. Judge Chasanow thanked ██████████ for her comments and Senator Kelley for her response.

Lt. Col. George R. Hardinger, Warden, Carroll County Detention Center and President, Maryland Correctional Administrators Association.

Captain Michael Merican, Warden, St. Mary's County Detention Center.

Lt. Col. Hardinger explained that he would be addressing two issues: consecutive sentences and time served. With regard to the former, Lt. Col. Hardinger noted that, per the Legislature, offenders are not to be sentenced to a local facility for longer than 18 months. He explained that the 18 month cap was set because local facilities are not equipped and do not have the programming needed for offenders serving long sentences. However, many jurisdictions currently have offenders serving longer than 18 months in their local facilities as a result of consecutive sentences.

Captain Merican echoed Lt. Col. Hardinger's concerns, noting that he frequently sees consecutive sentences to local correctional facilities totaling more than 18 months. For example, he currently has an offender in his jail who is serving three consecutive 18 month sentences.



Delegate Anderson asked if this practice was occurring in all jurisdictions. Lt. Col. Hardinger responded that he was confident that it was occurring in most. Laura Martin asked if the speakers had talked to their local judges about the problem. They responded that they had. Judge Nance noted that the issue was not one that pertained to the sentencing guidelines. Judge Chasanow explained that consecutive sentences are recorded accurately on the guidelines worksheet. For example, two consecutive 18 month sentences will be recorded as a 36 month sentence. Judge Chasanow recommended bringing the problem to the attention of the Legislature and/or the judges.

Delegate Vallario asked if the consecutive sentences to local facilities were intended to keep offenders participating in work release. Lt. Col. Hardinger responded that in most detention centers, offenders are not participating in work release for that extended period of time. For example, in Carroll County work release is limited to 12 months.

Lt. Col. Hardinger concluded his remarks by drawing attention to variability in the amount of time that offenders serve. He noted that the work of the Commission considers sentence length, but it does not look at how much time is actually served. Lt. Col. Hardinger attributed differences in time served to inconsistencies in both parole practices and how diminution credits are awarded.

Russell Butler, Executive Director, Maryland Crime Victims' Resource Center, Inc.

Mr. Butler noted that he previously served as a member of the MSCCSP for two terms. He began his remarks by briefly summarizing the historical background regarding the inclusion of the victim related data fields on the sentencing guidelines worksheet. Mr. Butler explained that the 1998 final report of the study commission provided a number of recommendations, including a recommendation that the sentencing guidelines worksheet be used as a mechanism to collect data regarding the extent to which victims' rights provisions have been exercised. In response, the permanent commission added a number of victim-related items to the worksheet.

Mr. Butler emphasized the importance of the victims' items, noting that they serve to remind judges of victims' rights provisions at sentencing. He urged the Commission to look at ways to make sure that judges are accountable. Mr. Butler concluded by commending the Commission for its hard work, and noted that if he could ever be of assistance, he would be happy to do so.

Anne Marie Litecky, State Victim Services Coordinator, Governor's Office of Crime Control & Prevention and Maryland State Board of Victim Services.

██████████, *Member, Maryland State Board of Victim Services.*

Ms. Litecky read a letter addressed to Judge Chasanow from Roberta Roper, chair of the State Board of Victim Services. The letter thanked Dr. David Soulé for appearing before the Board in November to explain the goals of the Commission and to provide statistics concerning compliance with victims' rights laws. The letter went on to state the importance of the victim related data fields on the sentencing guidelines worksheet, noting that there is no other method available to identify the extent to which victims' rights laws are actually guaranteeing victims access to the criminal justice system. The data provide a comprehensive description of the actual operation of victims' rights laws, and they are invaluable to the Board. The letter concluded by thanking the Commission for its continued good work on behalf of Maryland citizens.



Judge Chasanow noted that Ms. Roper's letter had been distributed to all Commissioners. Ms. Litecky summarized that the concern is that if some or all of the items in the victim information section of the sentencing guidelines worksheet are removed, victims will be impacted adversely.

██████████ commented that she is a victim survivor (her husband was murdered), as well as a victim advocate. She has seen first hand how the victim related items have assisted victims and believes it is crucial that they remain on the worksheet.

Judge Chasanow thanked all of the speakers for attending and voicing their concerns. Judge Chasanow asked if there were any additional speakers present who wished to address the Commission. Noting no additional requests, the meeting was adjourned at 7:05 p.m.