



**Maryland State Commission on Criminal Sentencing Policy
2014 Public Comments Hearing**

Miller Senate Building
Annapolis, MD 21041
December 9, 2014, 6:15 p.m.

Minutes

Commission Members in Attendance:

Honorable Diane O. Leasure, Chair
Delegate Curtis S. Anderson
James V. Anthenelli, Esquire
Colonel Marcus L. Brown
LaMonte E. Cooke
William Davis, Esquire, *representing Public Defender Paul B. DeWolfe*
Kieran Dowdy, *representing Acting Secretary Carroll Parrish*
Paul F. Enzina, Esquire
Richard A. Finci, Esquire
Honorable Patrice E. Lewis
Megan Limarzi, Esquire, *representing Attorney General Douglas F. Gansler*
Honorable Alfred Nance
Honorable Andrew L. Sonner

Staff Members in Attendance:

Sarah Bowles
Stacy Najaka, Ph.D.
David Soulé, Ph.D.

Speakers:

Lea Green, President, Maryland C.U.R.E.
[REDACTED], Maryland C.U.R.E.
[REDACTED], Maryland C.U.R.E.
[REDACTED], Maryland C.U.R.E.
Frank Dunbaugh, Maryland Justice Policy Institute
Vincent Greco, ELG Think Tank

Judge Leasure called the Public Comments Hearing to order at 6:15 p.m. Judge Leasure started by providing an overview of the history of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) and explained its purpose, functions, goals, and role. The MSCCSP monitors judicial compliance with the Maryland Sentencing Guidelines, recommending and adopting changes to the guidelines as necessary. It classifies new and amended offenses enacted by the Maryland General Assembly. The MSCCSP also automates and collects sentencing guidelines worksheets, which it uses to evaluate the guidelines. The MSCCSP also responds to requests for data and information on sentencing in Maryland's Circuit Courts, and conducts trainings and orientations for criminal justice personnel. Its ongoing projects include the Maryland Automated



Guidelines System (MAGS), a web-based system for automating the process of calculating sentencing guidelines, and completing and submitting guidelines worksheets; and studying the feasibility of implementing risk assessment instruments to assist judges at sentencing. Judge Leasure explained that the MSCCSP, in carrying out its responsibilities, recognizes the importance of providing a forum for the public to discuss sentencing-related issues, which is why it holds an annual Public Comments Hearing. The MSCCSP appreciates the testimony provided by members of the public, as it sheds light on important issues affecting criminal justice practitioners and agencies throughout Maryland.

Judge Leasure next asked the Commissioners to introduce themselves and note their affiliations. Judge Leasure then welcomed the speakers to the podium. Three of the six individuals who testified provided written comments in advance of the Public Comments Hearing. Copies of the submitted written comments are attached as an appendix to these minutes.

Note: The views expressed in the Public Hearing testimony are those of the speaker(s) and do not reflect the official policy, position, or opinions of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP). The MSCCSP does not endorse the content of the testimony, nor does it guarantee the accuracy, reliability, or completeness of the information.

Lea Green, President, Maryland C.U.R.E.

Ms. Green introduced herself as the President of Maryland C.U.R.E. (Citizens United for the Rehabilitation of Errants) and the mother of a person serving a life sentence. Ms. Green explained that her group had come to the public comments hearing in order to educate itself about the policymaking process, to get to know the Commissioners, and to hopefully have the Commissioners get to know the group. Ms. Green further explained that Maryland C.U.R.E. is concerned with the effects of the war on drugs on its community, and it wants to understand where policymakers stand with reference to the needs of its community. Ms. Green drew attention to the Federal Second Chance Act. Ms. Green stated that as taxpayers, voters, supporters, and citizens of Maryland, Maryland C.U.R.E. urges all to end injustice, make a difference, and help the criminal justice system to do the right thing.

Delegate Anderson stated that Annapolis was the appropriate place for Maryland C.U.R.E. members to come, to acquaint themselves with policymakers. Delegate Anderson stated that the Maryland General Assembly would be meeting in Annapolis in a few weeks. The legislators in attendance at the Maryland General Assembly are the policymakers who could make the changes Ms. Green and Maryland C.U.R.E. support. Delegate Anderson noted, for example, that last year, the Maryland Second Chance Act, similar to the Federal version, passed the House of Delegates and went through a Senate Committee, but did not pass the Senate. The General Assembly also passed a bill, sponsored by Delegate Anderson, requiring the governor to act on Parole Commission recommendations for individuals serving life sentences. Per the new bill, when the Parole Commission makes a recommendation regarding an individual serving a life sentence (with the possibility of parole), the Governor must act on that recommendation within six months or the Parole Commission's recommendation goes into effect. Delegate Anderson noted that, while the legislators at the Maryland General Assembly are the policymakers to seek out in January, the



MSCCSP appreciates citizens who come to the Annual Public Comments Hearing to express their concerns.

Ms.Green stated that her impression was that the passage of Delegate Anderson's new bill, had little effect on individuals serving life sentences with the possibility of parole. She stated that Maryland, Oklahoma, and California are the only three states in which the governor has authority over parole decisions for inmates serving life sentences. Ms. Green stated that parole for individuals serving life sentences is a major issue in Maryland C.U.R.E.'s community.

Delegate Anderson noted that his new bill had been introduced several times in prior years, before it was finally passed. Delegate Anderson stated that the initial version of his bill removed the governor from the parole process entirely; however, through the legislative amendment process, the final version of his bill was amended to require that the governor take action. Delegate Anderson noted that four years passed from the introduction of the initial version of his bill to the passage of the final version. In the future, the General Assembly may take the next step and remove the governor from the parole decision for individuals serving life with the possibility of parole. Delegate Anderson stated that what advocates, such as Maryland C.U.R.E., do is absolutely necessary to the legislative process.

Mr. Enzinna suggested that Maryland C.U.R.E. also communicate its concerns to the Parole Commission, as the Parole Commission has authority over issues concerning individuals serving life sentences. Mr. Enzinna further noted that, under the current procedures, getting a recommendation from the Parole Commission, which is necessary for an individual to gain parole, is almost impossible.

Ms.Green stated that Maryland C.U.R.E. is hoping to change minds, to let inmates with life sentences pass through the system like everyone else.

Judge Leasure noted that the MSCCSP had received many letters from concerned citizens, most of which expressed concern about parole policies. Judge Leasure indicated that these issues were outside the scope of responsibility of the MSCCSP. Accordingly, the MSCCSP would forward the letters to the Parole Commission.

██████████, *Maryland C.U.R.E.*

██████████ identified himself as a "lifer" who was incarcerated for 41 years. He voiced his support for the Second Chance Act. ██████████ stated that the ability of inmates to transition from prison, with the opportunity to gradually reintegrate into society, was of benefit to both inmates and the Division of Corrections. ██████████ stated that the system has a way of pushing inmates back into society without the opportunity to accumulate funds or proper housing; then former inmates have to resort to crime to support themselves. ██████████ noted that the Second Chance Act, if properly implemented, could help a lot of people.



██████████, *Maryland C.U.R.E.*

██████████ expressed concern regarding young men who are sentenced to life without a lawyer or other representative present to help them during their initial contact with the police. ██████████ asked if there is anything a mother can do to help her child during his or her initial contact with police.

Judge Lewis stated that Chief Judge Morrissey of the District Court of Maryland is in charge of implementing the post-*Richmond* laws in this area. Judge Lewis noted that as result of the *Richmond* decision, lawyers are now being offered to defendants when they go before the District Court Commissioner. All defendants charged with a crime, other than by way of citation, are asked if they wish to be represented by a Public Defender. If they are ineligible for a Public Defender, private attorneys are available. Numerous opportunities exist in the system for a defendant to request counsel, but it is the defendant's decision to utilize counsel. Mr. Cooke agreed, noting that in Queen Anne's County, his staff encourages individuals to accept legal representation.

Delegate Anderson explained that the *Richmond* case, in which the Court of Appeals (the highest court in Maryland) upheld the decision of Judge Nance (an MSCCSP Commissioner), affirms the notion that defendants are entitled to representation by an attorney at the initial bail hearing. Delegate Anderson noted that the General Assembly is presently trying to determine how to provide defendants with this representation in a cost effective manner, but in the interim Governor O'Malley placed \$10 million into the state budget to have private attorneys across the state present when District Court Commissioners first decide whether to release defendants and under what conditions.

██████████, *Maryland C.U.R.E.*

██████████ discussed his experiences with the criminal justice system. Sentenced to life in ██████████, ██████████ stated that he never thought he would be released from prison. ██████████ stated that he went "wild" and "crazy" in prison, but as time went on he realized that he would have to change if he ever wanted to return home. He started going to self-help groups and church within the prison. ██████████ noted that he knew ██████████ son and that he talked with ██████████ and that she helped him. ██████████ stated that now ██████████ and the members of Maryland C.U.R.E. need the help of the MSCCSP. ██████████ concluded that he hopes the MSCCSP appreciates what he has to say.

Frank Dunbaugh, Maryland Justice Policy Institute, and Vincent Greco, ELG Think Tank

Mr. Dunbaugh expressed concern that many individuals serving sentences outside of the sentencing guidelines have no rationale on their record indicating why the judge departed from the guidelines. Mr. Dunbaugh suggested that the legislature could require the governor to reduce the sentence to the upper limit of the guidelines range or require resentencing in cases in which the judge does not indicate a reason for departure above the guidelines. Mr. Dunbaugh suggested that this would encourage judges to report their reasons for departure from the guidelines.

Judge Leasure noted that the automation of the sentencing guidelines worksheet calculation and submission process through MAGS may help to remedy this issue. MAGS provides users with a



prompt that requires them to indicate a reason when a sentence is a departure from the guidelines range.

Mr. Dunbaugh also expressed concern over the costs of telephone services to inmates. Mr. Dunbaugh stated that telephone services to inmates are currently provided by private contractors. He asked the MSCCSP and legislature to clarify that a criminal sentence does not authorize the state to raise revenue by charging inmates for telephone services, because the families of inmates often incur these costs, and it amounts to an extra tax on them. Mr. Dunbaugh stated that the legislature should decide who is going to be taxed, for what they are going to be taxed, and the amount that they are going to be taxed. Mr. Dunbaugh stated that the legislature has not considered the cost of phone services to inmates and their families, but rather bureaucrats negotiated these costs with private contractors.

Delegate Anderson asked Mr. Dunbaugh for an example of the costs of phone services to inmates.

Mr. Greco responded that phone calls outside of the lat (i.e., outside of the specified local area around the correctional facility) cost thirty cents per minute; calls within the lat (i.e., local calls) are eighty-five cents per thirty minutes. Mr. Greco noted that the cost for local calls seemed reasonable, but that the cost for long distance calls did not seem reasonable. Mr. Greco noted that strong family ties and communicating with loved ones are associated with lower recidivism, but that inmates cannot afford the costs of phone services at the current rate. Further, the high cost of phone services results in prisoners using cellular phones, which the system cannot monitor. Mr. Greco noted that inmates have cell phones because they cannot afford to contact their family members otherwise, though there may be other reasons.

Mr. Dunbaugh added that wardens do not get charged thirty cents per minute to make calls.

Mr. Dowdy, thanking Mr. Dunbaugh and Mr. Greco for coming to speak, stated that this issue was beyond the purview of the MSCCSP; the MSCCSP had therefore forwarded Mr. Dunbaugh and Mr. Greco's memorandum to the Department of Public Safety and Correctional Services (DPSCS). Mr. Dowdy noted that the DPSCS would be happy to speak with them and respond to the issues they have raised. Mr. Dowdy added that under a new phone contract, the DPSCS had reduced rates charged to inmates by 67%, but also noted that there is a cost to maintaining and operating the phone system. Mr. Dowdy stated that everyone in the DPSCS agreed that maintaining connections with loved ones is hugely important.

Mr. Greco stated that inmates appreciated the reduced rates, but that the rates were still "astronomical."

Judge Nance stated that the MSCCSP appreciates individuals bringing their concerns before the Commission. Judge Nance noted that while issues of sentencing are more relevant to the work of the MSCCSP than is the issue of phone services, it does not mean that these issues are unimportant. Judge Nance noted that the person in a position to receive and respond to issues concerning inmate phone services (Mr. Dowdy) had indicated that he would like to follow up with Mr. Dunbaugh and Mr. Greco. Judge Nance stated that while the MSCCSP often would like to do more to address the concerns of citizens, it cannot. Judge Nance reiterated that the people who need to hear testimony regarding these and other similar issues are state legislators and other elected officials. Judge Nance



stated that where real people bring real issues, interests, and numbers, they can garner attention and response. Judge Nance further noted that judges would like to place more individuals in rehabilitative programs, but that there is not adequate funding to do so. Judge Nance noted that even though the issues raised at the Hearing go beyond the purview of the MSCCSP, the testimony presented does provide an opportunity for individual Commissioners to hear about these issues. Judge Nance further noted that, regarding life sentences, there must be a balance between concern for the defendant and regard for the offense that has been committed; a life sentence is a price for something. Judge Nance noted that the best advice for an individual who gets a life sentence is for him or her to stay silent until he or she talks to a lawyer. Judge Nance noted that the system will provide a defendant with a lawyer, but that he or she has to make use of it.

Mr. Dunbaugh stated that he is also concerned about the effects on inmates' families when they cannot speak to their father on the phone. Mr. Dunbaugh asked if judges recognize that this is happening and the burden that it places on families.

Mr. Greco repeated Mr. Dunbaugh's concern regarding judges not reporting their reasons for departing from the guidelines. Mr. Greco reiterated that if the judge does not give a rationale for his or her departure from the guidelines, no one can question the legitimacy or accuracy of the rationale. Judge Leasure repeated her response to Mr. Dunbaugh regarding the prompt in MAGS. Mr. Greco thanked her.

Judge Leasure noted that Mr. Terry Dodson had contacted the MSCCSP in advance of the meeting, indicating his interest in speaking at the Public Comments Hearing. However, he was not in attendance at the Hearing. Judge Leasure noted that the MSCCSP had received his written testimony in advance.

Judge Leasure closed the Hearing by reiterating the MSCCSP's appreciation for everyone's attendance and participation. The Hearing concluded at 7:03 pm.



Appendix

Written Testimony Submitted in Advance at the 2014 MSCCSP Public Comments Hearing

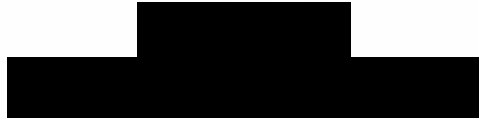
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Written Testimony Submitted in Advance by Ms. Lea Green:

MARYLANDCURE (Citizens United for Rehabilitation of Errants)

Lea Green, President



December 9, 2014

**Maryland State Commission on Criminal Sentencing Policy
Miller Senate Office Building
William Amoss Committee Room (4th floor)
11 Bladen Street
Annapolis, Maryland 21401**

Re: Supporting and Educating about the Legislative Process

Good evening Madam Chairman and all other distinguish members. Marylandcure is fully engage in educating ourselves to the Legislative process. We understand that ALL policies that affect our Communities come thru venue like this one.

We understand that due to the "war on drugs etc," our communities, families, are affected by the serious under representation of our policy makers. We want to understand just where ALL of our Policy makers stand in reference to the needs of our communities!

We are asking ALL of our Policy Maker's to consider that Former President Bush, highest level of Government, signed into law the SECOND CHANCE ACT, April 9, 2008! This law need to be recognized That a person can change, become productive tax paying citizens, and deserve a second chance.

**In conclusion, as taxpayers, voters, supporters and citizens of this great state, we urge ALL to end this Dark chapter of injustice, make a difference, help the system do the right thing!
We will support you!**

Peace, Strength, and Love

Lea Green, President of Marylandcure

**Written Testimony Submitted in Advance by Messrs. Vincent Greco and Frank Dunbaugh:****Memorandum**

Date: December 8, 2014
To: Maryland Sentencing Commission
From: Vincent Greco (ELG Think Tank) & Frank Dunbaugh (Maryland Justice Policy Institute)
Re: Two proposals

This memorandum is to request that the Maryland Sentencing Commission consider the following two proposals:

1. It has come to our attention that, although the law requires sentencing judges to state in writing their reasons for departing from the sentencing guidelines, many sentences with such departures are entered without any written statement of the court's rationale. We propose that the Commission adopt a resolution that recommends that the Maryland General Assembly enforce the current law by requiring that the Governor review any sentence to incarceration which exceeds the guidelines without a statement of the court's rationale. The Governor shall have two choices (a) to commute the sentence to the maximum set forth in the guidelines, or (b) to obtain from the sentencing court a modification of the sentencing order which sets out the rationale for departing from the guidelines.
2. The state has entered into a series of procurement contracts with the providers of telephone services which contracts provide telephone service to prisoners. In addition, these contracts obtain substantial revenue for the Department of Public Safety by requiring the contractor to pay a "commission" to the Department. This commission increases the cost of prisoner telephone calls to a great deal more per call than calls of the same distance and duration made by the warden and other staff of the prison. These costs mostly are born by the families of the prisoners. We propose that the Commission adopt a resolution that proposes that the Maryland General Assembly take the following two actions:
 - a. Make it clear to the sentencing courts and to the executive branch that the sentencing laws do not authorize the Department to raise revenue by charging the prisoners or their families to pay for telephone service at a higher rate than the rates charged to the general public;
 - b. Make it clear to the sentencing judges and to the executive branch that any expenditures necessary for operating the prisons must come from the general treasury as appropriated by the Maryland General Assembly; and
 - c. Authorize the Legislative Reference Service to conduct a full examination and audit of the telephone contracts and of the Inmate Welfare Fund into which the revenue from the telephones is supposed to be deposited.

**Written Testimony Submitted in Advance by [REDACTED]:****Maryland State Commission on Criminal Sentencing Policy
2014 Annual Public Comments Hearing, December 9, 2014****Testimony by [REDACTED]**

My name is [REDACTED] and I was born in prison. Shortly before I was born, my father killed a man that my mom said tried to rape her. My father got a life sentence and was killed in prison. My mom also was prosecuted and got a life sentence and she is in the women's prison in Jessup, where she has been my entire life. The only place I have ever seen my mom is in a prison visiting room. I am 21 years old now and I grew up without a mom or a dad in my life. I was bounced around from place to place and even have been homeless at times, sleeping under the bleachers at my high school football field. But I am a high school graduate and I am going to culinary school to learn to be a chef. The State still has my mom and all I get from the State is \$70 a month in food stamps. Despite that fact, with the help of a couple of people in my life who care about me, I am working hard to make something of myself.

I hope my story helps you to understand that the sentencing policies that you create do not just effect the person who goes to prison. If that person has kids, they are effected too. When my mom and dad got a life sentence, I also got a life sentence of not having a mom or dad in my life. Please make changes to the sentencing rules in Maryland so that kids like me are not deprived of their parents for their entire lives. Thank you.