



## Minutes

Maryland State Commission on Criminal Sentencing Policy  
Judiciary Training Center  
Annapolis, MD 21041  
April 27, 2010

### **Commission Members in Attendance:**

Honorable Howard S. Chasanow, Chair  
James V. Anthenelli, Esquire  
Shannon E. Avery, Esquire, *representing Secretary Gary D. Maynard*  
Chief Marcus L. Brown  
Joseph I. Cassilly, Esquire  
Honorable Arrie W. Davis  
William Davis, Esquire,  
Paul B. DeWolfe, Esquire  
Paul F. Enzina, Esquire  
Richard A. Finci, Esquire  
Major Bernard B. Foster, Sr.  
Senator Delores G. Kelley  
Laura L. Martin, Esquire  
Honorable John P. Morrissey  
Honorable Alfred Nance  
Kate O'Donnell, Esquire, *representing Attorney General Douglas F. Gansler*  
Charles F. Wellford, Ph.D.

### **Staff Members in Attendance:**

Eric Dunton  
Stacy Skroban Najaka, Ph.D.  
Jessica A. Rider  
David A. Soulé, Ph.D.

### **Visitors:**

Stephanie Faudale – MSCCSP student intern  
Marissa Ulman – MSCCSP student intern

### **1. Call to order**

Judge Chasanow called the meeting to order.

### **2. Roll call and declaration of quorum**

The meeting began at 5:35 p.m. when quorum was reached.

### **3. Approval of minutes, December 8, 2009 meeting**

The minutes were approved as submitted.



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

Dr. Soulé had five items to report to the Commission. First, Dr. Soulé informed the Commissioners that the last round of submitted COMAR updates would be adopted effective May 1, 2010. These updates include clarifying language adopted at the last MSCCSP meeting on December 8, 2009, regarding the addition of points for the presence of a weapon and for adjudications of not criminally responsible (NCR).

Second, Dr. Soulé announced that the Commission will release an updated Sentencing Guidelines Manual on May 1, 2010 that will reflect the changes adopted at the prior meeting. A Guidelines E-News will be sent to criminal justice practitioners who apply the guidelines to inform them that an updated manual is available for download on the MSCCSP website. Due to budget constraints, the MSCCSP will not be able to send out a hard copy of the Guidelines Manual at this time.

Dr. Soulé next informed the Commission of an upcoming training for the Office of the Public Defender on May 7, 2010 at the Miller Senate Office Building. Dr. Soulé also noted that he has been in contact with Rachel Kamins, president of the MSBA Criminal Law Section. The MSBA is taking over the function of providing training from MICPEL. Ms. Kamins indicated that the Criminal Law Section would like to work with the MSCCSP to provide a CLE program for sentencing guidelines training.

Dr. Soulé next discussed the development of the sentencing/corrections simulation model, noting that the MSCCSP staff continues to work with the program developers at Applied Research Services (ARS). Dr. Soulé indicated that he received a status report on the project just prior to leaving the office for this meeting and that he plans to review the report with the Guidelines Subcommittee and will report back to the full Commission at the next meeting. Senator Kelley noted that she was pleased to see that the MSCCSP was consulted to provide information and data for preparation of fiscal impact statements during the Legislative Session.

Finally, Dr. Soulé introduced undergraduate student interns Marissa Ulman and Stephanie Faudale who were observing the meeting.

#### **5. Introduction of new Commissioners and Subcommittee appointments**

Judge Chasanow welcomed newly appointed Commissioners Judge Alfred Nance, Mr. Joseph I. Cassilly, Mr. Paul B. DeWolfe, and Mr. DeWolfe's proxy Mr. William Davis. Judge Chasanow noted the wealth of experience that the new appointees bring to the Commission.

Judge Chasanow also announced that he appointed Judge Nance, Ms. Laura Martin and Mr. Rick Finci to the Guidelines Subcommittee. Judge Chasanow thanked them for their willingness to participate on the Subcommittee.

#### **6. Demonstration and review of the Maryland Automated Guidelines System (MAGS)**

Dr. Soulé began his presentation with an overview of the Maryland Automated Guidelines System (MAGS). He briefly described how automation will work, noting that a few new Commissioners have been welcomed to the Commission since the last presentation on MAGS. Dr. Soulé described MAGS as a web-based application that will be hosted on a Maryland Department of Public Safety and Correctional Services (DPSCS) web server. Sentencing guidelines worksheet information will be electronically submitted via MAGS through a link on



the MSCCSP website. The data will be stored on a secure DPSCS server with daily information backups.

Dr. Najaka provided a demonstration of MAGS by illustrating the steps for completing a sample case in the automated system. Dr. Soulé noted that MAGS will ensure that users apply the correct mandatory minimum and/or statutory maximum for relevant offenses so long as the correct offense is chosen. While it is an uncommon mistake, guidelines worksheets sometimes do not account for mandatory minimum and/or statutory maximums. Dr. Soulé concluded the demonstration by asking for input from the Commissioners regarding user protocol and for establishing a plan for implementation of the automated system.

Mr. Cassilly asked whether the system would automatically calculate offenders' prior adult criminal records. Dr. Najaka responded that the current plan is for state's attorney to continue to access CJIS and use the manual's Prior Adult Criminal Record Matrix in order to score offenders' records. The MAGS programmers have informed the Commission that automatically retrieving information from CJIS to create a prior adult criminal record score would be a difficult programming task. In any event, Commissioner Martin explained that not all convicted offenses are found on CJIS. She reasoned that tying MAGS into CJIS will exclude these offenses from the calculation of the offender score and users would still need the ability to manually input any excluded offenses.

Dr. Soulé suggested that the Commission may want to include an electronic version of the Prior Adult Criminal Record Matrix and instructions for scoring the prior record in MAGS. Commissioner Finci agreed that it would be useful to incorporate the matrix and the scoring instructions into MAGS. However, he noted that he had reviewed a prior version of MAGS which allowed users to input the prior adult criminal record information and calculate a score electronically. In his opinion, this process was too time consuming and less effective than doing so on paper. He suggested that the easiest solution may be to include an electronic copy of the matrix and worksheet for users to view, but users would still need to calculate the score manually. The consensus opinion of the Commission was to include the matrix and prior record worksheet as a pop-up on MAGS for viewing/printing, but not necessarily for automatic calculation of the prior record.

Judge Chasanow asked whether judges could scan and submit worksheets to the Commission electronically rather than complete them via MAGS. Dr. Soulé responded that at this time, the Commission had not planned to allow for scanning of paper worksheets and therefore the Commission would probably need to accept paper versions of worksheets via mail when MAGS is initially implemented.

Judge Nance inquired as to the time commitment MAGS will impose on judges. Judge Morrissey offered the example of landlord tenant court in Prince George's County, which uses an electronic filing system comparable to MAGS. While Judge Morrissey said that inputting landlord tenant data into a computer can be more time consuming for judges, he believes the benefits in information capture, scheduling, statistical analysis, and ease of use outweigh the time commitment necessary for data entry.



Judge Morrissey asked whether the Commission has been in contact with the Administrative Office of the Courts' (AOC) Technology Oversight Board, chaired by Judge Clyburn, which is in the process of implementing an electronic unified case management system for Maryland's courts. Dr. Soulé replied that the Commission has been in contact with the AOC while pursuing its own automated system. Dr. Wellford suggested that the Commission should not delay its own automation efforts, given that the AOC has a longer timeframe in completing its automated system. Senator Kelley agreed, but noted that integration of MAGS with the AOC's system should be the Commission's ultimate goal, so long as doing so is feasible. Toward this end, she suggested that Commission staff continue to engage the AOC. Judge Chasanow reminded the Commission that the two systems are separate and fulfill separate needs, but that the Commission will continue to be receptive to suggestions for aligning the systems.

The Commission then discussed who should have access to the system and who should complete the final worksheet for submittal. Dr. Soulé suggested that MAGS should be available via the Commission's website as a tool for defense attorneys, prosecutors, and others to calculate the guidelines and print out a worksheet. These users would have the ability to save an "in-progress" record to the Commission's database. However, only judges and their staff would be able to submit a final completed guidelines worksheet to the Commission. Dr. Soulé noted that Alabama utilizes a similar submission format. As is the Commission's policy, MAGS will neither identify nor capture information on individual judges.

Dr. Soulé suggested that the Commission will need to continue the discussion of several issues as the MSCCSP gets closer to implementation of an automated system. Questions for continued discussion will include:

- Who will have access to the system?
- Will users be able to submit multiple worksheets for a case?
- How will judges identify the case to submit as the final official worksheet?

Judge Davis suggested that when the MSCCSP gets closer to a final plan for implementing the automated model, it would be a good idea for representatives from the MSCCSP to meet with Judge Bell and the Judicial Cabinet to coordinate our efforts with the judiciary.

Dr. Soulé asked the Commissioners to forward any suggestions and questions regarding MAGS to the staff.

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

The next meeting was set for Tuesday, June 29, 2010 at the Judiciary Training Center in Annapolis, MD. The Commission will provide dinner 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.

#### **10. Adjournment**

The meeting adjourned at 7:10 p.m.