



Minutes

Maryland State Commission on Criminal Sentencing Policy
Videoconference
July 12, 2022

Commission Members in Attendance:

Honorable Brian L. DeLeonardo, Chair
Honorable Shannon E. Avery, Vice-Chair
Honorable J. Sandy Bartlett
Katie Dorian, Esq., *representing Attorney General Brian E. Frosh*
Richard A. Finci, Esq.
Brian D. Johnson, Ph.D.
Honorable Patrice E. Lewis
Alethea P. Miller
Honorable David Moon
Honorable James P. Salmon
Kyle E. Scherer, Esq.
Lisa M. Spicknall-Horner
Donald Zaremba, Esq., *representing Public Defender Natasha Dartigue*

Staff Members in Attendance:

Sarah Bowles
Mark Mills
Stacy Najaka, Ph.D.
Katharine Pembroke
David Soulé, Ph.D.

Visitors: None.

1. Call to order

Dr. Soulé called the meeting to order.

2. Declaration of quorum

The meeting began at 5:32 p.m. when attendance reached a quorum.

3. Introduction of new MSCCSP Chair, Honorable Brian L. DeLeonardo

Dr. Soulé welcomed the MSCCSP's new Chair, Judge Brian L. DeLeonardo from the Circuit Court for Carroll County. He noted that the Commission is fortunate to have him back, as he previously served as the State's Attorney representative for several years before being appointed to the bench in Carroll County.

Judge DeLeonardo thanked Dr. Soulé. He acknowledged the hard and substantive work of the Commission and stated that he was happy to be back.



Dr. Soulé continued by recognizing two other Commissioners. He noted that there is a new State Public Defender, Natasha Dartigue, who effective July 1, 2022, replaced the retired State Public Defender, Paul DeWolfe. Dr. Soulé confirmed that Donald Zaremba will remain in his capacity as representative of the Office of the Public Defender.

Dr. Soulé then acknowledged Katie Dorian, who, for tonight’s meeting, is stepping in for Kathleen Murphy as representative for Attorney General Brian Frosh.

4. Approval of minutes from May 10, 2022, MSCCSP Meeting

The minutes were approved as submitted.

5. Guidelines Subcommittee Report – Judge Shannon Avery

Judge Avery stated that the Guidelines Subcommittee met on June 30, 2022. The Guidelines Subcommittee has three action items to present, including recommendations from the Subcommittee. Judge Avery turned the discussion over to Dr. Soulé to address the action items. Dr. Soulé noted that he would review the first Subcommittee item; Ms. Pembroke would review the second item; and Ms. Bowles would review the final item.

a. Proposed classification of new and revised offenses, 2022 Legislative Session (Action Item)

Dr. Soulé provided a review of how the Commission has traditionally classified new and revised offenses, as well as an explanation of what is covered in the materials sent for this meeting. Each year, the MSCCSP reviews new and revised criminal penalties and considers how the new and revised criminal penalties will fit within the Maryland sentencing guidelines. The task of classifying new and revised criminal offenses is designated to the Guidelines Subcommittee of the MSCCSP. The Subcommittee’s recommended classifications are then presented to the full Commission for review. In preparation for this task, the Guidelines Subcommittee reviews all legislation from the legislative session and prepares a memorandum that identifies any new or revised criminal offenses that carry a maximum penalty of greater than one year of incarceration. The memorandum focuses on penalties of one year or greater because, by rule, the MSCCSP does not require classification of offenses that carry a maximum penalty of one year or less. Rather, these offenses are automatically assigned a seriousness category of VII.

Dr. Soulé referred Commissioners to the memorandum titled, *Proposed Classification of New or Revised Offenses, 2022 Legislative Session*. This is a 17-page document, divided into four sections: (1) new offenses with action recommended, (2) changes to existing offenses with action recommended, (3) new offenses with no recommended action, and (4) changes to existing offenses with no recommended action. Also provided was a supporting document titled, *Combined file of legislation with new/revised offenses_2022*. This PDF combines all of the legislation that is reviewed in the new or revised offenses memo. The



bills appear in the order they are listed in the *Proposed Classification of New/Revised Offenses* memo.

Dr. Soulé noted that based on previously established protocol, the Guidelines Subcommittee offers seriousness category recommendations by examining currently classified offenses that are comparable based on the following: type of offense (person, drug, property); statutory maximum; misdemeanor/felony classification; and nature of the offense (when possible). For each new or amended offense, the memorandum presents the Guidelines Subcommittee-identified comparables at the bottom of each page or on the next page.

i. Chapter 26 (HB 837)— CDS and Paraphernalia— Cannabis cultivation in violation of requirements provided in CR, § 5-601.2 (CR, § 5-601.2)

This bill creates a new offense that establishes CR, § 5-601.2 which prohibits the cultivation of cannabis plants under certain circumstances and provides that this offense is subject to up to 3 years of imprisonment and/or a fine of up to \$5,000. Dr. Soulé noted that House Bill 837 will take effect if, in the November 2022 general election, Maryland voters approve a constitutional amendment legalizing cannabis use and possession by individuals 21 years of age or older (HB 1). If the constitutional amendment is approved, the new offense established by CR, § 5-601.2 will take effect July 1, 2023.

Dr. Soulé noted that based on the statutory maximum penalty of 3 years and a review of the comparables, the Guidelines Subcommittee recommends classifying cannabis cultivation in violation of the requirements provided in CR, § 5-601.2 as a drug offense with a seriousness category of V. The Subcommittee believed this new cultivation offense was more closely aligned with possessing or distributing controlled non-marijuana paraphernalia (a category V offense) as opposed to mere possession offenses which are categorized as category VII offenses. This was a unanimous recommendation from the Guidelines Subcommittee.

Judge DeLeonardo asked if there were any offense classifications with disagreement among Subcommittee members. Dr. Soulé recounted that while there was discussion, each of the offense classifications was unanimous. Judge Avery confirmed Dr. Soulé's recollection. Judge DeLeonardo asked if it would be easier to make one motion to adopt all the Guidelines Subcommittee's classifications. Dr. Soulé suggested that one motion could be made to accept the Guidelines Subcommittee's recommendations. However, Dr. Soulé suggested that he review individually each of the offenses for which the Subcommittee recommended action (pages 1 through 8 of the memorandum).

Judge Avery made a motion to approve all the Guidelines Subcommittee's recommendations. Mr. Finci seconded the motion. Judge DeLeonardo asked if any



Commissioner objected to the motion. Seeing no objection, the Commission adopted unanimously the Guidelines Subcommittee’s recommendations for classification.

Dr. Soulé proceeded to review the remaining offenses for which action was recommended.

- ii. Chapters 18 and 19 (HB 425/SB 387) alter the definition of “firearm” to include an unfinished frame or receiver without a serial number (i.e., a “ghost gun”) and create a new offense prohibiting a person from purchasing, receiving, selling, offering to sell, or transferring such unfinished frame or receiver. The new law also prohibits a person from possessing a firearm on or after a certain date, unless it is required by federal law to be, and has been, imprinted with a serial number in compliance with certain federal laws and regulations.

- a. Chapters 18 and 19 (HB 425/SB 387)— Weapons Crimes—In General— Purchase, receive, sell, offer to sell, or transfer an unfinished frame or receiver that has not been imprinted with a serial number in compliance with federal laws and regulations (i.e., a “ghost gun”) (PS, § 5-703(c)(1))

Based on the statutory maximum and a review of the comparables, the Guidelines Subcommittee recommends classifying the 5Y misdemeanor for purchasing, receiving, or selling a “ghost gun” as a category V, person offense.

- b. Chapters 178 and 179 (HB 234/SB 607)— Weapons Crimes—In General— Possess a firearm that has not been imprinted with a serial number in compliance with federal laws and regulations (PS, § 5-703(c)(2))

Based on the statutory maximum and a review of the comparables, the Guidelines Subcommittee recommends classifying the 2Y misdemeanor for possession of firearm that has not been imprinted with a serial number as a category VI, person offense.

Judge DeLeonardo asked if there were any questions. Seeing none, Dr. Soulé proceeded to the next offense.

- iii. Chapter 642 (SB 15) adds numerous new offenses to the Election Law Article, two of which are subject to more than 1 year of imprisonment.

First, the bill prohibits a person from willfully making a false, fraudulent, or misleading statement under oath in a campaign finance report and provides that this offense is punishable consistent with the crime of perjury, which is a misdemeanor subject to up to 10 years of imprisonment, per CR, § 9-101.



Second, the bill prohibits a person from submitting a campaign finance report on behalf of another person without that person's consent and provides that this offense is punishable consistent with the crime of perjury.

Senate Bill 15 also adds a new offense to the General Provisions Article prohibiting a person from willfully making a false, fraudulent, or misleading statement under oath in a statement filed by a person providing compensation to a lobbyist and provides that this offense is punishable consistent with the crime of perjury.

- a. Chapter 642 (SB 15)—Perjury—Willfully make a false, fraudulent, or misleading statement under oath in a campaign finance report; submit a campaign finance report on behalf of another person without that person's consent (EL, § 14-109(c); CR, § 9-101 (penalty))

Based on the statutory maximum and a review of the comparables, the Guidelines Subcommittee recommends classifying the offense as a category IV, property offense.

- b. Chapter 642 (SB 15)—Perjury—Willfully make a false, fraudulent, or misleading statement under oath in a statement filed by a person providing compensation to a lobbyist; make an electronic submission of a statement required by GP, §5-716 on behalf of another person without that person's express consent (GP, § 5-716(n); CR, § 9-101 (penalty))

Based on the statutory maximum and a review of the comparables, the Guidelines Subcommittee recommends classifying the offense as a category IV, property offense.

Judge DeLeonardo asked if there were any questions. Seeing none, Dr. Soulé proceeded to the next offense.

- iv. Chapter 26 (SB 837)— CDS and Paraphernalia— Unlawful possession with the intent to distribute, manufacture—cannabis (CR, § 5-607(a)(2))

Dr. Soulé noted that this offense starts the review of changes to existing offenses that warrant consideration of action by the MSCCSP. This particular offense emanates from the cannabis legislation previously discussed (Chapter 26/ HB 837).

The relevant section of this bill establishes that a person who possesses with the intent to distribute (PWID) or manufactures cannabis in violation of CR, § 5-602(b)(1) (PWID cannabis) or CR, § 5-603(b) (manufacture of cannabis), respectively, is guilty of a misdemeanor and upon conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both. Additionally, the bill allows for the adult sharing of a personal use amount of



cannabis and establishes that adult sharing of a personal use amount of cannabis does not violate CR, § 5-602.

Dr. Soulé noted that, currently, the PWID or manufacture of cannabis is punished consistent with the distribution or manufacture of other non-narcotic controlled dangerous substances under CR, § 5-607 (imprisonment up to 5 years, and/or a fine of up to \$15,000). After HB 837 takes effect, the PWID/manufacture of cannabis will be punished differently from other non-narcotic controlled dangerous substances (i.e., 3 years/\$5,000 fine instead of 5 years/\$15,000 fine).

Dr. Soulé noted that House Bill 837 will go into effect only if, in the November 2022 general election, Maryland voters approve a constitutional amendment legalizing cannabis use and possession by individuals 21 years of age or older (HB 1). If the constitutional amendment is approved, the revisions to CR, §§ 5-602, 5-603, and 5-607 will take effect January 1, 2023.

Based on the statutory maximum penalty and a review of the comparables listed on page 8, the Guidelines Subcommittee recommends classifying this offense as a drug offense with a seriousness category of V.

Delegate Bartlett asked if the Guidelines Subcommittee had any opposition to the classification. Dr. Soulé confirmed that the classification was a unanimous decision.

Dr. Soulé noted that for the remainder of the memo (pp. 9-17), there is no recommended action for the Commission. No action is recommended for new offenses with penalties of 1 year or less (pp. 9-11), as they are automatically assigned a seriousness category of VII unless the Commission chooses to adopt a different seriousness category. Dr. Soulé further noted that no action is recommended for the changes to existing offenses (pp. 12-17), because there were no changes to the penalty structure for these offenses. Dr. Soulé stated that he would be happy to review with the Commission any specific offenses with no designated actions.

Dr. Soulé reiterated that all of the Guidelines Subcommittee's recommendations had been approved by the earlier motion.

b. Proposed revisions to the instructions for data collection on three-judge panel reviews and sentence modifications (Action Item)

Dr. Soulé stated that Ms. Pembroke would present the next item for discussion.

Ms. Pembroke referred Commissioners to the memo, *Proposed Revisions to the Instructions for Data Collection on Three-Judge Panel Reviews and Sentence Modifications*. Ms. Pembroke noted that the MSCCSP currently receives sentencing guidelines worksheets for two types of cases involving non-original sentencing events: (1)



reconsiderations involving crimes of violence (COV) if an adjustment is made to the active sentence (i.e., period of incarceration), and (2) three-judge panel reviews if an adjustment is made to the active sentence.

Multiple practitioners have contacted the MSCCSP with questions relating to the collection, reporting, and guidelines-eligibility of certain non-original sentencing events. More specifically, practitioners have expressed confusion as to how to properly report the “Reconsideration (COVs only) & Three-Judge Review” field on the sentencing guidelines worksheet and have questioned the types of reconsideration scenarios that require a sentencing guidelines worksheet.

In a review of sentencing guidelines worksheets submitted in fiscal years 2020 and 2021, the staff identified a substantial number of worksheets involving original sentencing events that were misreported by practitioners in the Maryland Automated Guidelines System (MAGS) as three-judge panel reviews. Based on data obtained from the Maryland Judiciary’s Administrative Office of the Courts (AOC), three-judge panel reviews involving a modification to the defendant’s active sentence are rare.

Given these findings and questions from practitioners, staff first presented two potential actions regarding the MSCCSP’s current data collection protocol to the Guidelines Subcommittee for consideration at its April 25, 2022, meeting: (1) remove three-judge panel reviews from the MSCCSP data collection protocol, and (2) clarify the definition of “reconsideration” involving a COV.

With regards to potential action #1, removing three-judge panel reviews from the Commission’s data collection protocol, during its April meeting, the Subcommittee expressed a desire to continue collecting three-judge panel reviews in some form, given that a three-judge panel review constitutes a modification to an original sentence.

With regards to potential action #2, clarifying the definition of “reconsideration” involving a COV, the Subcommittee supported unanimously adding clarifying language to the Maryland Sentencing Guidelines Manual (MSGM), Code of Maryland Regulations (COMAR), MAGS, and the sentencing guidelines worksheet, where applicable, to help bring further understanding as to the types of non-original sentencing scenarios involving COVs that require a sentencing guidelines worksheet.

While the Subcommittee did not reach a consensus regarding specific language during the April meeting, there was agreement to revisit the discussion at its next meeting. The Guidelines Subcommittee met again on June 30, 2022, and ultimately agreed to recommend to the Commission two actions: (1) limit the collection of three-judge panel reviews to those involving a COV, and (2) add the term “modification” to “reconsideration” and other clarifying language to the MSGM, COMAR, MAGS, and sentencing guidelines worksheet, where applicable.



Ms. Pembroke noted that the proposed amendments in their entirety are provided at the conclusion of the memorandum.

Ms. Pembroke provided some brief background history of the Commission's collection of reconsiderations and three-judge panel reviews. House Bill (HB) 1143 (Chapter 559, 2002) created Criminal Procedure Article (CP), § 6-209(b)(1)(iii) and CP, § 6-209(b)(1)(iv) which provide that the Commission's annual report "shall...(iii) review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14-101 of the Criminal Law Article; and (iv) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14-101(a) of the Criminal Law Article and by judicial circuit." This law went into effect on October 1, 2002.

While CP, § 6-209(b)(1)(iii) and CP, § 6-209(b)(1)(iv) do not explicitly require that the Commission collect information for three-judge panel reviews, it is the staff's understanding that the Commission made the decision to collect information on both reconsiderations and reviews given that both can result in adjustments to original sentences. Further, only three-judge panel reviews can result in an "increase" to an original sentence. It is unclear whether CP, § 6-209(b)(1)(iii) intended to include three-judge panel reviews for this reason, but it lends another possibility that could help to explain the Commission's initial decision to include them in its data collection.

Ms. Pembroke noted that pages 2 and 3 of the memorandum list the present-day instructions regarding three-judge panel reviews and reconsiderations in the MSGM.

Effective July 1, 2019, (Guidelines Manual, Version 11.0), "Reconsideration or Three-Judge Review" became a separate and mandatory field on the sentencing guidelines worksheet (paper worksheet version 2.0) and in MAGS (Version 9.0). This change was made in light of analyses showing that worksheets for reconsiderations were often reported according to their original disposition type (e.g., plea agreement or trial) and not coded as "Reconsideration" or "Review," therefore resulting in an undercount of reconsiderations and reviews in the sentencing guidelines data.

In response to the "Reconsideration or Three-Judge Review" field becoming mandatory in MAGS, Ms. Pembroke stated that the staff noticed an increase in cases being misreported, and practitioners have expressed confusion as to what option to select for this field. Misreporting is particularly an issue with original sentencing events being reported in MAGS as three-judge panel reviews.

In fiscal years 2020 and 2021, monthly data provided to the Commission from the AOC identified zero sentencing events involving eligible three-judge panel reviews. In contrast, when analyzing data submitted via MAGS, staff identified a total of 279 sentencing events that were marked by practitioners as three-judge panel reviews. Staff reviewed each of



these cases on Maryland Judiciary’s Case Search, and only five of the 279 cases involved a three-judge panel review. The remaining cases were original sentencing events.

Ms. Pembroke stated that the Commission is statutorily required to report annually on reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article. In recent years, multiple practitioners have expressed confusion regarding the types of reconsideration scenarios that require a guidelines worksheet. The guidelines manual does not include an explicit definition of reconsideration, nor is the term “reconsideration” defined by Maryland rule or statute. In collecting sentencing guidelines worksheets, the Commission has taken a broad approach in an effort to capture eligible modifications to COVs, generally instructing that a worksheet should be completed for any modification to the active sentence for a COV, including those that result from Health General Article (HG), § 8-507 orders. For this reason, practitioners and staff alike believe “modification” is a more universally understood term, and that clarifying the term “reconsideration” by adding “modification” would help bring further understanding as to the types of sentencing scenarios involving COVs that require a guidelines worksheet.

Additionally, during its April 25 meeting, the Guidelines Subcommittee recommended adding several drop-down options in MAGS to help further identify the type of modification involving a COV. These drop-down options would include: (1) Pursuant to Maryland Rule 4-345; (2) HG, § 8-507 order; or (3) Three-Judge Panel Review.

Given the lack of explicit statutory requirement, rarity of cases, and continued misreporting of three-judge panel reviews, the Guidelines Subcommittee agreed with the staff’s proposal to limit the collection of worksheets for three-judge panel reviews to those involving COVs. This change would provide consistency with the data collection protocol and reporting requirements for reconsiderations/modifications. The staff also speculates that limiting the collection of three-judge panel reviews to COVs would help to reduce the amount of misreporting currently seen in MAGS, as the application could be reprogrammed to enable the “Modification to Crime of Violence Sentences” field only if the sentencing event involves a COV as defined in CR, § 14-101.

Lastly, the Guidelines Subcommittee reviewed and agreed to recommend to the Commission proposed language that adds the term “modification” to “reconsideration” in the MSGM and COMAR and simplifies field headers in MAGS and on the sentencing guidelines worksheet, where applicable.

Ms. Pembroke noted that the proposed revisions to the MSGM, COMAR, MAGS, and the sentencing guidelines worksheet are detailed on pages 5 -7 of the memorandum.

With regards to MAGS, the Guidelines Subcommittee agreed with the staff’s proposal to add an additional field to the GLS/Overall Sentence tab. This field would become enabled only if the sentencing event involved a COV (as defined in CR, § 14-101), and would ask “Is this sentencing event the original sentencing event or a modification to a COV



sentence (i.e., an adjustment was made to the active, original sentence)?” The “Reconsideration (COVs only) and 3-Judge Review” field would then be replaced with “Modification to Crime of Violence Sentences.” If the user selects the sentencing event is a modification to a COV, the “Modification to Crime of Violence Sentences” field would become enabled and the user would select one of the following modifications from the drop-down menu: (1) Pursuant to Maryland Rule 4-345; (2) HG, § 8-507 order; or (3) Three-Judge Panel Review.

Ms. Pembroke concluded her summary and turned it over to Dr. Soulé and the Commission for further discussion.

Dr. Soulé summarized that data collection for reconsiderations is incredibly time consuming for staff. Additionally, staff spends a lot of time correcting cases incorrectly reported in MAGS as three-judge panel reviews. The staff has put a lot of time into how to simplify the reporting of these events and eliminate cases that are being erroneously reported as modifications. This proposal presents a reasonable solution. The Commission will still be going beyond its statutory mandate to collect data on reconsiderations to COVs, as the Commission will continue to collect worksheets for three-judge panel reviews involving COVs. The Commission chose to collect three-judge panel reviews twenty-some years ago for the reasons that were detailed by Ms. Pembroke. Now, sentences are being incorrectly reported as three-judge panel reviews.

Judge Avery agreed that the proposal was a reasonable solution. Clarifying reconsideration language would help to eliminate erroneous submissions because “reconsiderations” as a term does not really exist in the criminal law, which most likely causes confusion among practitioners. With clarification and reasonable adjustments, the Guidelines Subcommittee arrived at a reasonable solution. The Subcommittee can continue to evaluate the situation. If there continue to be erroneous submissions, the Subcommittee can reevaluate the matter.

Judge Avery moved to accept the Guidelines Subcommittee’s recommendations pertaining to sentence modifications. Delegate Bartlett seconded the motion. Judge DeLeonardo asked if there was any discussion of or opposition to the motion. Seeing none, the Guidelines Subcommittee’s recommendations were adopted unanimously by the Commission.

c. Proposed clarification for definition of weapon presence (Action Item)

Dr. Soulé stated that Ms. Bowles would present the next item.

Ms. Bowles referred Commissioners to the memorandum titled, *Clarifying the Definition of Weapon Presence*. Ms. Bowles noted that the staff have received multiple questions from practitioners regarding the definition of “explosive” as it pertains to the assignment of weapon presence points in part C of the offense score. Specifically, practitioners have



questioned whether the presence of items designed to start a fire would constitute an explosive. For instance, if a defendant attempts to set fire to a person by using gasoline and a lighter, would that be considered an explosive for the purposes of applying two points for weapon presence?

Ms. Bowles noted that the current definition of weapon presence is provided on page 1 of the memo. Weapon presence is defined as the presence of an article or device which reasonably appears capable of causing injury or the presence of an article that could result in conviction under Criminal Law Article (CR), § 4-101. Ms. Bowles noted that the full text of CR, § 4-101 is provided starting at page 4 of the memo. The definition of weapon presence goes on to state that explosives are considered the same as firearms, which means that their presence is awarded two points. Weapons other than firearms are awarded one point and include incendiaries.

Ms. Bowles suggested that based on this definition, the presence of gasoline and a lighter to set fire to a person may be considered an incendiary, which would equate to one point for weapon presence. However, given that the MSGM does not further define explosive or incendiary or reference this specific scenario, the staff have instructed practitioners that it is ultimately at the judge's discretion as to whether one or two points should be awarded.

Ms. Bowles reported that the Guidelines Subcommittee discussed this issue at its June 30 meeting. Given the uncertainty among practitioners, the Subcommittee recommends unanimously that language be added to the MSGM and COMAR to clarify the definition of weapon presence, explosives, and incendiaries. Ms. Bowles noted that these revisions are provided on pages 2 and 3 of the memo. The revised language would reference the definition of explosive material and incendiary material provided in CR, § 4-501, which also provides reference to the definition of explosive provided in Public Safety Article (PS), § 11-101. Ms. Bowles noted that the full text of both of these statutes is provided on pages 5 and 6 of the memo.

Ms. Bowles suggested that providing reference to this statute would offer to practitioners clear guidance that items designed to start a fire, such as gasoline and a lighter, would constitute an incendiary or a weapon other than a firearm and be awarded one point for weapon presence. Providing this reference would also to the list of weapons other than firearms toxic materials, which are also defined in CR, § 4-501.

Ms. Bowles turned the discussion over to Dr. Soulé and the Commission.

Dr. Soulé noted that this was a unanimous recommendation by the Guidelines Subcommittee that the staff thinks will help bring some clarification and lead to consistency in the scoring of weapon presence points in part C of the offense score.

Judge DeLeonardo asked if there was a motion to adopt the recommendation. Judge Avery made a motion to adopt the Subcommittee's recommendation. Ms. Spicknall-Horner



seconded the motion. Judge DeLeonardo asked if there was any discussion of or opposition to the motion. Seeing none, the Guidelines Subcommittee's recommendation was adopted unanimously by the Commission.

6. Executive Director Report – Dr. David Soulé

Dr. Soulé stated that he had four items to report as part of the Executive Director Report.

a. DLS required report on racial biases at sentencing (Status report)

Dr. Soulé began by discussing the Department of Legislative Services' (DLS) required report on racial biases at sentencing. He reminded Commissioners that at the May 10, 2022, meeting, staff reported that during the legislature's review of the Commission's FY23 budget, an analyst from DLS recommended, and the budget committees agreed, that the MSCCSP "develop a plan for studying the extent to which racial bias is present in sentences assigned through Maryland courts." At the May meeting, staff reviewed a proposed outline for the analysis. Dr. Soulé noted that on June 30, 2022, he then distributed the detailed plan for the analysis, based on that outline. The staff also requested feedback on the plan to be provided by July 8, 2022.

Dr. Soulé continued by noting that the plan was revised to include an analysis of sentencing factors by race/ethnicity disaggregated by judicial circuit. Judicial circuit was added as a measure after receiving a suggestion from Dr. Brian Johnson who indicated that it may be important to include a measure of the geographic location where the defendant was sentenced. Dr. Soulé explained that this plan for analysis was submitted to the Legislature in advance of the required due date, Friday, July 15, 2022. The staff projects completion of the actual report summarizing the results of the analysis one year later on July 15, 2023. Dr. Soulé reminded Commissioners that staff has already initiated these analyses and will likely present findings at the next Commission meeting in September.

b. July 1, 2022, revisions to the sentencing matrices for drug and property offenses (Status report)

Dr. Soulé reported that the sentencing matrices for drug and property offenses were updated effective July 1, 2022, and to account for this effective date, the Maryland Automated Guidelines System (MAGS) and Guidelines Calculator Tool (GLCT) were reprogrammed to account for the revisions to the drug and property offense matrices. He noted that a Guidelines E-News was distributed to criminal justice practitioners on June 1, 2022, to highlight the pending revisions and to provide the information about how to account for these revisions in MAGS and in the GLCT. He further noted that on June 30, 2022, the staff distributed a reminder notification to criminal justice practitioners to indicate again that the pending revisions would officially take effect the next day on July 1, 2022. The reminder email provided links for the revised Maryland Sentencing Guidelines Manual, the June 1 Guidelines E-News, a training webinar that reviewed the revisions to the sentencing matrices for drug and property offenses along with other recent and pending guidelines updates, and finally a PDF of



the revised drug and property matrices. Dr. Soulé advised that to date, the transition to the new matrices has proceeded smoothly.

c. Sentencing guidelines trainings/feedback meetings (Status report)

Dr. Soulé communicated that the staff completed four webinars in June that focused on the July 1 updates to the sentencing matrices for drug and property offenses. These sessions were held on June 1, June 10, June 13, and June 29. He noted that a YouTube video of this webinar was posted on the MSCCSP website as a reference for anyone who is interested in learning more about revisions to the sentencing matrices for drug and property offenses, as well as other recent and pending guidelines revisions.

Additionally, Dr. Soulé and/or Katharine Pembroke, Administrative and Training Coordinator for the MSCCSP, met with judges and court staff from multiple judicial circuits in May and June. Dr. Soulé met with the First Judicial Circuit judges on May 19, the Second Judicial Circuit on May 23, and Allegany County on May 31, and Ms. Pembroke provided a presentation for the Fifth Judicial Circuit on June 3, 2022. Dr. Soulé stated that he believes all the Commission's notices, training videos, and recent meetings have helped to raise awareness about the updates and have contributed to the smooth transition.

d. MSCCSP staff new position (Status report)

As reported at the May 10, 2022, MSCCSP meeting, Dr. Soulé reminded Commissioners that on the last day of the 2022 Legislative Session, the Maryland General Assembly passed Senate Bill (SB) 763. The final version of SB 763 combined multiple bills into a new version of SB 763 titled "Public Safety and Criminal Procedure – Collection, Reporting, and Publication of Criminal Case and Prosecutorial Information, otherwise known as the 'Maryland Criminal Justice Data Transparency Act.'" He explained that there are two primary provisions of SB 763 that impact the MSCCSP. First, the MSCCSP annual report is now required to include a specific report regarding sentences for crimes of violence. Second, the MSCCSP is required to add a data dashboard to the MSCCSP website to report the additional sentencing details about crimes of violence.

Dr. Soulé further noted that the Governor's supplemental budget included funding for the Commission to complete the new crimes of violence report and the corresponding data dashboard. This funding provides for the MSCCSP to hire one additional full-time staff member. He stated that a position description has been submitted to the University of Maryland Human Resources department and that staff is waiting for the creation of the position within the University system. Dr. Soulé continued by noting that the title for the position is "research assistant," and the primary responsibilities will include:

1. Assisting with collection of sentencing guidelines data;
2. Working with criminal justice partners to verify data;
3. Assisting with the creation and maintenance of a sentencing data dashboard;



4. Working with staff to develop and write an annual report on crimes of violence; and
5. Compiling, maintaining, and distributing monthly and biannual jurisdiction-specific guidelines worksheet completion and submission reports.

Dr. Soulé concluded by stating that experience with data spreadsheet management is required and experience with statistical software packages, such as STATA, SPSS, or SAS, is preferred. Once the position has been officially created, the staff will distribute a position announcement to all Commissioners so that it may be circulated to anyone who may be interested.

Dr. Johnson asked if this is a temporary or permanent position. Dr. Soulé confirmed that it is expected to be a permanent position for the Commission.

6. Remaining 2022 Meetings

Judge DeLeonardo reminded Commissioners of the remaining meeting dates for 2022:

Tuesday, September 13, 2022, 5:30 pm

Tuesday, December 6, 2022, public comments hearing and business meeting, 5:00 pm

Dr. Soulé noted that the September meeting will be held in-person at the new Maryland Judicial Training Center.

7. Old Business

None.

8. New Business and Announcements

None.

The meeting adjourned at 6:23 p.m.