



## Minutes

Maryland State Commission on Criminal Sentencing Policy  
Videoconference  
November 10, 2021

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

Honorable Brett R. Wilson, Chair  
Honorable Shannon E. Avery, Vice-Chair  
Honorable J. Sandy Bartlett  
Richard A. Finci, Esq.  
Robert H. Harvey, Jr., Esq.  
Alethea P. Miller  
Honorable David Moon  
Kathleen Murphy, Esq., *representing Attorney General Brian E. Frosh*  
Honorable James P. Salmon  
Kyle E. Scherer, Esq.  
Lisa M. Spicknall-Horner  
Honorable Charles E. Sydnor, III  
Donald Zaremba, Esq., *representing Public Defender Paul B. DeWolfe*

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

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

### **Visitors:**

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

MSCCSP Chair, Judge Brett R. Wilson, called the meeting to order.

#### **2. Declaration of quorum**

The meeting began at 5:33 p.m. when attendance reached a quorum.

#### **3. Approval of minutes from September 14, 2021, MSCCSP meeting**

The minutes were approved as submitted.



#### 4. Guidelines Subcommittee Report – Judge Shannon Avery

- a. Proposed revisions to the guidelines ranges for the drug and property offense sentencing matrices (Action item)

Judge Avery noted that the Guidelines Subcommittee considered revisions to the sentencing matrices for drug and property offenses. The Guidelines Subcommittee discussed the proposed revisions at its last meeting. The Guidelines Subcommittee voted 3 to 1 to recommend to the full Commission that the proposed revisions be adopted. Judge Avery turned the discussion over to Dr. Soulé for a presentation of the proposed revisions.

Dr. Soulé started the presentation by reviewing the basic principles of the Maryland sentencing guidelines. First, the sentencing guidelines in Maryland are voluntary. Judges may, at their discretion, depart from the guidelines. The voluntary nature of the guidelines emphasizes that they are designed to be a tool to help inform sentencing decisions, and they are intended to complement rather than replace the judicial decision-making process. Second, the guidelines are intended to be primarily descriptive. That is, the guidelines may be amended when the data indicate that sentences are not consistent with the recommended ranges. Third, the descriptive nature of the guidelines means they are not intended to be static. Rather, they are dynamic, and the guidelines may be amended when the data indicate that sentences are not consistent with the recommended ranges.

Descriptive guidelines are those that are informed by analysis of actual current sentencing practices. Guidelines that are primarily descriptive are not intended to tell judges how they should sentence. Rather, they are intended to illustrate to judges how their colleagues are sentencing, on average, for a typical case. This is accomplished by analyzing recent historical sentencing data and using that data to inform or describe the guidelines ranges.

Given the primarily descriptive nature of the guidelines, it is important to examine if sentences are consistent with the current guidelines ranges. Guidelines' compliance review is statutorily required by the Commission's enabling legislation, and it is one of the primary responsibilities of the MSCCSP. The Commission's annual reports provide detailed analyses of compliance with the guidelines by crime category, judicial circuit, and other measures. Additionally, the MSCCSP periodically completes a more detailed "cell-by-cell" analysis every 3 to 5 years.

As background, Dr. Soulé stated that a "cell" is the grid intersection of an individual's offender score and offense seriousness category (for drug and property offenses) or offense score (for person offenses) within the respective sentencing guidelines matrix. Dr. Soulé provided an example of a cell range from the current matrix for drug offenses, specifically the cell which illustrates the corresponding grid intersection for an offender score of 3 and seriousness category VII offense, indicating a recommended guidelines range of P (probation) to 1 month.



Dr. Soulé noted that the cell-by-cell compliance analysis reviews data for sentences from each of the intersecting grid cells of the three matrices to consider whether changes to the guidelines ranges are warranted. The last review concluded in December 2015 with the Commission's decision to revise the drug matrix for seriousness categories IV and V offenses. Those changes were adopted effective July 1, 2016.

At its April 2021 meeting, the Guidelines Subcommittee initiated the Commission's current cell-by-cell compliance analysis. The current review examined single count sentencing data from calendar years 2018 through 2020. This timing allowed for the collection of three full calendar years of sentencing guidelines data following the Justice Reinvestment Act and corresponding October 2017 revisions to the seriousness categories for many common property offenses and drug possession offenses. The analysis looked at average sentence and strict and regular compliance by cell.

Strict compliance considers a sentence compliant only if the sentence (not including suspended time) falls within the recommended range, while regular compliance provides additional allowances for sentences involving corrections options, guidelines-compliant pleas, and credited time.

As a first step in the review, the Subcommittee examined both regular compliance and strict compliance rates for each cell of the current matrices, with particular attention paid to cells with rates below the 65% benchmark standard and a sufficient sample size of at least 50 total cases.

Dr. Soulé further explained the 65% benchmark standard. The descriptive nature of the guidelines originated from the Judicial Committee on Sentencing that first developed and proposed the guidelines to the Maryland Judicial Conference. In 1991, the Sentencing Guidelines Revision Committee of the Judiciary's Guidelines Advisory Board established an expectation that two-thirds of sentences would fall within the recommended sentencing range and when sentencing practice resulted in departures from the recommended range in more than one-third of the cases, the guidelines should be revised. Based on this previously adopted policy, the Commission adopted the goal of 65% as the benchmark standard for sentencing guidelines compliance.

Findings from the first step of the review were reported at the May 2021 Commission meeting. To briefly recap, the first step considered compliance and strict compliance by matrix and cell for single count sentencing events in 2018 through 2020. The primary takeaway was that most of the cells with at least 50 cases are meeting the 65% compliance benchmark as regular compliance is below the 65% benchmark in only 2.2% of all cells across the three matrices. However, when considering strict compliance, more than one-fourth of those cells have compliance rates less than 65%. Further, in the majority of noncompliant cells, departures below the guidelines exceed departures above the guidelines.

The Guidelines Subcommittee discussed the findings at its April meeting and agreed that the next step in the review was to examine where the middle 65% of sentences fall for each cell. By identifying the middle 65% of sentences and considering revisions to more



closely align with the middle 65%, the Commission achieves two things. First, the 65% compliance benchmark will be met if the Commission identifies the range that captures the middle 65% of sentences. Second, the middle 65% will reflect the average or middle sentence for a particular cell while excluding outlier sentences on either end of the range. Accordingly, the guidelines will help inform about the average sentence for a typical case.

Dr. Soulé presented a graph illustrating the middle 65% for the intersecting grid cell of the drug matrix for seriousness category IIIB and an offender score of 1. Dr. Soulé noted that the blue portion of the graph illustrates the 496 sentences in calendar years 2018 through 2020 in this particular cell. The majority of sentences in this cell fall in the range between 0 months to 18 months. Although not illustrated on this graph, another 17.5% of sentences are at 0 months and an additional 17.5% are above 18 months. In instances when the lower limit of the middle 65% is probation, as it is with this particular cell, this simply indicates that the “bottom” 17.5% of sentences is also probation. The current guidelines for this cell are set at 1 year to 3 years, but as you can see, a smaller percentage of sentences fall in the current range. This middle 65% analysis was completed for each of the cells in the drug and property matrix.

The next step of the review considered proposed amendments to the drug and property matrices and examined how compliance rates would change with those revisions. The proposed revisions strike a balance between a strictly descriptive middle 65% of current sentences, the number of months in each range, and the proportionality of ranges across cells. The proposed revisions move the guidelines substantially closer to the middle 65%. However, they do not correspond strictly to the middle 65%, as they also offer proportional incremental increases going across the matrices (as the offender criminal history score increases) and down the matrices (as the offense severity increases).

Dr. Soulé drew the Commission’s attention to the summary document containing the current and proposed ranges for the drug and property matrices, *Summary of Proposed Revisions to Drug and Property Matrices*. Dr. Soulé presented a summary of the proposed revisions to the drug matrix. Dr. Soulé noted that within the summary document, three rows of information are listed for each cell: Row 1, in red font, provides the middle 65% of sentences with the total number of cases for the cell noted in parentheses. Row 2 provides the current guidelines range and the number of months between the lower and upper ranges. Row 3 provides the proposed guidelines range and the number of months between lower and upper ranges. Cells highlighted in yellow have a strict compliance rate less than 65% and at least 50 cases, while cells highlighted in blue have a strict compliance rate less than 65% and fewer than 50 cases.

The yellow highlighting indicates that there are 9 cells with at least 50 cases where strict compliance is less than 65%. This is compared with 15 cells in the current matrix so the proposed revisions would result in more compliance. Further, although not illustrated here, all of the revised cells with 50 cases or more would have a regular compliance rate of greater than 65%.



Dr. Soulé focused in on one cell of the drug matrix, specifically the cell corresponding to an offender score of 1 and a seriousness category of IIIB. The first row of the cell indicates the middle 65% of sentences for category IIIB drug offense cases where the defendant has an offender score of 1 is probation to 18 months. The number of sentences in this cell during calendar years 2018 through 2020 was 496, as shown in parentheses. The second row indicates that current guidelines range is one year to three years (with 24 months between the lower and upper ranges), and the yellow highlighting indicates that fewer than 65% of sentences are within that range. The third row indicates that the proposed range is probation to 18M, and the absence of yellow highlighting indicates that at least 65% of sentences are within that range. Accordingly, the proposed revisions would change this cell so that more than 65% of sentences are strictly compliant with the guidelines.

Dr. Soulé next discussed the proposed revisions to the sentencing matrix for property offenses. Dr. Soulé presented a summary of the proposed revisions to the property matrix. Dr. Soulé noted that the yellow highlighting indicates that there are 6 cells with at least 50 cases where strict compliance is less than 65%. This is compared with 14 cells in the current matrix. Further, all of the revised cells with at least 50 cases have a regular compliance rate of 65% or greater.

Dr. Soulé again highlighted one of these cells to take a closer look, specifically the cell corresponding with an offender score of 3 and a seriousness category of VI. The first row of the cell indicates that there are 56 sentences for a category VI property offense where the defendant has an offender score of 3, and the middle 65% of those sentences is probation to one year. The second row indicates that current guidelines range is six months to two years (with 18 months between the lower and upper ranges), and the yellow highlighting indicates that fewer than 65% of sentences are within that range. The third row indicates that the proposed range is probation to 1Y, and the absence of yellow highlighting indicates that at least 65% of sentences are within that range. Again, the proposed revisions would change this cell so that more than 65% of sentences are strictly compliant with the guidelines.

Before any further discussion, Dr. Soulé suggested that it may be helpful to first address a few common questions that have been raised regarding these proposed revisions. First, are the proposed sentences intended to reduce sentences for drug offenses, particularly those convicted of drug distribution? Dr. Soulé answered this question, noting that the proposed guidelines revisions are not intended to reduce sentences and the revisions to the guidelines are not intended to change sentencing. Rather, the proposed revisions amend the guidelines to reflect recent sentencing trends more accurately. In other words, the proposed revisions more closely align the guidelines with how judges are currently sentencing. The proposed revisions still provide a broad range which offer flexibility and discretion to the judges while remaining within the guidelines. Dr. Soulé emphasized that the sentencing guidelines are not intended to say what judges should do or what sentences the State should recommend. The guidelines are intended to reflect the average sentence that has been actually imposed based on an analysis of sentencing guidelines data. Further, Dr. Soulé reminded the Commission that the guidelines remain voluntary and



judges retain the option to sentence above or below the guidelines when the facts of the case call for an increased or decreased sentence.

Second, do the proposed revisions reflect sentence “discounts” due to the COVID-19 pandemic? Dr. Soulé answered this question, stating no. At the request of the Subcommittee, the staff specifically examined this question. The start date of the COVID pandemic was March 5, 2020, which is when Governor Hogan declared a State of Emergency. Using this start date, approximately 13% of sentencing events in the three-year time period from 2018 through 2020 occurred during COVID and there were very few differences in strict compliance by matrix and cell when those sentences were excluded, with strict compliance rates generally varying by no more than a few percentage points. While there was evidence of a COVID discount in general, it does not significantly impact the average sentences or compliance rates in the three-year time period examined by the current review. This is likely due to two factors. First, the data review covered calendar years 2018 through 2020. The COVID-19 pandemic started in March 2020 and, therefore, it impacted only 10 of the 36 months analyzed for this review. Second, because court operations were impacted by the pandemic, the number of sentencing events occurring during the pandemic is substantially smaller relative to the total number of sentencing events in the three-year time period examined by the current review. In summary, the inclusion of 10 months of data from the start of the pandemic does not alter guidelines sentencing trends for this three-year time period, and therefore the MSCCSP decided to include all sentencing events for calendar years 2018 through 2020 to maximize the number of sentencing events informing the review.

Third, do the proposed revisions reflect sentencing trends statewide, or do they reflect sentences from one or two larger jurisdictions? Dr. Soulé answered this question, stating that the proposed revisions are based on analysis of statewide sentencing trends. The guidelines are intended for use statewide and are not intended to reflect jurisdiction-specific sentencing. With that being said, the Guidelines Subcommittee did review a more detailed analysis of the sentences for seriousness category III-B drug offenses. This review was completed because of concern that the proposed guidelines ranges may be skewed or too heavily influenced by sentences in the 8th Circuit. Specifically, it was noted that the 8th Circuit accounts for 24% of drug offenses and an even more disproportionate number of III-B drug offense sentencings, as 41% of III-B offenses come from the 8th Circuit. Accordingly, the staff examined the sentences for III-B offenses separately for the 8th Circuit and all other circuits. The materials provided to Commissioners include a document labeled, *Detailed Review of IIIB Drug Offenses*, that reviews this analysis. Staff considered examining sentences for all drug offenses – not just the III-B offenses – however, the numbers of 8th Circuit cases in the other seriousness categories are too small to permit a comparison of 8th Circuit sentences to all other sentences. The provided document lists the current guidelines range in row 1 and the proposed guidelines range in row 2. The average sentence and middle 65% of sentences for all cases are detailed in red font in row 3, while rows 4 and 5 list the sentence information separately for the 8th Circuit and all other circuits, respectively. As expected, average sentences for III-B drug offenses in Circuit 8 are lower across the board than average sentences in other circuits. However, it is important to note that in all



of the III-B cells, average sentences in other circuits are still lower than the current guidelines ranges. For example, if one compares the current guidelines ranges that are listed in the first row of the document with the average sentences in other circuits that are listed in the green font in the last row of the document, you will see that in each cell, the average sentence in other circuits is below the current lower guidelines limit. So, while the sentences in the 8th Circuit trend lower than the sentences in other jurisdictions, the sentences in other jurisdictions also trend lower than the current guidelines ranges. Finally, Dr. Soulé noted that the proposed ranges in the second row are more aligned with the sentences from the other jurisdictions (those in the green font) than the sentences in 8th Circuit (blue font).

Dr. Soulé wrapped up the presentation by noting that the Guidelines Subcommittee reviewed the cell-by-cell analysis over the course of seven months starting in April 2021. The review spanned across four meetings and concluded on October 19, 2021, with a vote to recommend proposed revisions to the sentencing matrices for drug and property offenses. The Subcommittee voted 3 to 1 in favor of the proposed revisions to the sentencing matrix for drug offenses. Mr. Harvey represented the one vote in opposition. He did not oppose the recommended revisions to seriousness categories IV, V, and VII drug offenses, but opposes specifically the changes to the cells corresponding to the seriousness categories III-B and III-C offenses. The Guidelines Subcommittee unanimously supported the proposed revisions to the sentencing matrix for property offenses. The primary rationale for supporting the proposed revisions is that the guidelines are most meaningful and relevant when they are regularly reviewed and when they are consistent with current sentencing trends.

In conclusion, Dr. Soulé noted that the Commission's By-Laws permit the Commission to, among other things, approve a proposed action, subject to receiving public comment. If the Commission votes to give preliminary approval to the proposed revisions, the revisions may be presented for comment at the MSCCSP's public comments hearing to be held on December 7, 2021. Pending the outcome of the public comments hearing, the Commission may vote to officially adopt proposed revisions to the drug and property matrices at the MSCCSP business meeting that will immediately follow the public hearing. This was the protocol the Commission followed when prior revisions to the drug matrix were approved in 2015. Accordingly, the Guidelines Subcommittee recommends that the Commission vote today to tentatively approve the proposed revisions subject to public input at the December 7, 2021, public comments hearing.

Judge Avery thanked Dr. Soulé for his presentation and noted that it was one of the best explanations of the process she has seen. Judge Avery opened the discussion for questions from Commissioners.

Ms. Murphy stated that she is attending the meeting on behalf of the Attorney General, Brian Frosh. Ms. Murphy asked whether the present analyses account for the types of offenses that may be represented in a specific cell. Ms. Murphy referenced, for example, seriousness category III property offenses. This category includes theft greater than or equal to \$100,000. Ms. Murphy noted that this particular offense could represent a lot of different scenarios. The statute itself does not account for the different scenarios that may



be represented. For instance, Ms. Murphy explained that one cannot distinguish, in the matrix cells or the statute itself, a seriousness category III theft of two million dollars by a security scammer versus a theft of \$100,001 of copper pipe from a laborer. Across the cells of the matrix, the proposed revisions decrease the guidelines, particularly in the higher categories. Ms. Murphy noted that, in terms of property crimes, these changes affect people with serious records. There may be an offender who committed an offense over a long period of time who stands in the same “guidelines shoes” as someone who committed a different offense. The proposed revisions significantly reduce their recommended sentence. Ms. Murphy additionally noted that seriousness category III property offenses also include financial crimes against vulnerable adults. These types of cases take longer to charge and, as such, are charged less frequently. Therefore, offenses like financial crimes against vulnerable adults are probably not as often represented in the Commission’s data.

Dr. Soulé noted that the majority of seriousness category III property offenses are 1st degree burglary. The next most common offense in this category is theft greater than or equal to \$100,000, followed by 1st degree arson. Dr. Soulé noted that theft greater than or equal to \$100,000 used to be a seriousness category II offense. However, the penalty for this offense was reduced from 25 years to 20 years. The Commission responded to the penalty change by decreasing the offense from a seriousness category II to a seriousness category III. Dr. Soulé noted that the Commission categorizes offenses based primarily on maximum penalty, which is why the offense is now placed in same category as 1st degree burglary.

Mr. Finci noted that Chapter 14.3 of the Maryland Sentencing Guidelines Manual (MSGM) provides for departures above the guidelines in cases in which the level of harm was excessive, there are special circumstances of the victim, there was an abuse of position of trust, or the defendant committed a white-collar offense. Any of these reasons for an above departure may apply to theft greater than or equal to \$100,000 or to financial crimes against vulnerable adults.

Mr. Harvey commended Dr. Soulé for his presentation. Mr. Harvey expressed his concern with respect to the proposed revisions to category III drug offenses. Mr. Harvey noted that these categories involve individuals convicted of felony drug offenses to include the importation, distribution, and possession with the intent to distribute drugs, including opiates, heroin, fentanyl, prescription painkillers, and the like. Mr. Harvey suggested that these categories include people who are not drug addicts, but rather drug dealers. Mr. Harvey noted that the proposed revisions lower the guidelines across the board. Mr. Harvey stated, on behalf of the Maryland State’s Attorneys Association (MSAA), that there are two problems with the proposed revisions. First, Mr. Harvey suggested that the Commission is sending the wrong message to the public by proposing a reduction in the guidelines for category III drug offenses. Mr. Harvey noted that he recently saw the following headline in the Washington Post: “U.S. Overdose Deaths Soaring.” The article went on to state that from March 2020 to March 2021, overdose deaths in the U.S. were up 30% over the previous 12-month period and were at an all-time high. Mr. Harvey questioned whether, with these kinds of headlines, it is the right time for the Commission to recommend decreasing the guidelines. Mr. Harvey noted a





second problem with the proposed revisions, which was addressed by the statistical data. Mr. Harvey stated that it is his belief that the sentencing data is skewed downward somewhat by sentences from the 8th Circuit. Mr. Harvey noted that a significant number of drug sentences occur in the 8th Circuit and that sentences imposed for these offenses in the 8th Circuit are substantially lower than in other circuits. Mr. Harvey stated that it is his position, as the State's Attorney for Calvert County and representative of the MSA, that he cannot support the proposed revisions for category III drug offenses.

Dr. Soulé noted that with respect to the data, everything Mr. Harvey said is accurate. However, Dr. Soulé noted that the proposed ranges for seriousness category III-B drug offenses are more in line with, and in some cases are more stringent, than the average sentences from the other seven circuits. To that extent, Dr. Soulé stated that the proposed ranges are not being revised down to reflect any one particular jurisdiction. Rather, the proposed ranges are in more in line with sentences outside of the 8th Circuit.

Ms. Murphy, referencing Mr. Finci's previous comments, noted that she understands that the State can argue for sentences above guidelines in particularly serious white-collar offenses. However, Ms. Murphy expressed concern that the Commission is inadvertently lowering the guidelines for underrepresented offenses, in particular financial crimes against vulnerable adults. By definition, these crimes involve vulnerable adults, although they are not considered person crimes. Ms. Murphy suggested that one way to correct this issue would be to review the specific crimes being sentenced in each of the seriousness categories of the property matrix to see if there are specific underrepresented offenses. Ms. Murphy expressed concern that the Commission would continue to push the guidelines lower for some of the more egregious, but less frequent, offenses.

Dr. Soulé noted that the staff could look into underrepresented offenses, such as financial crimes against vulnerable adults, though the sample sizes would be small. Dr. Soulé agreed with Ms. Murphy in that these offenses are not the crimes driving the majority of sentences that are being analyzed in the current cell-by-cell compliance review.

Judge Avery asked Ms. Murphy if her concerns would be an obstacle to the Attorney General voting for the proposed revisions or, rather, if it is an issue that the Commission can address as research in the future. Ms. Murphy stated that if the issue can be addressed in some way in the future and the data informing the proposed revisions now is consistent with how the Commission has been operating, she is comfortable with proceeding with the proposed revisions.

Judge Avery commented that Ms. Murphy raises an interesting issue. Judge Avery expressed that she would be interested to know if there is a disparity in certain offense categories that goes to how the Commission categorizes offenses. Dr. Soulé noted there is precedent for such research. For instance, the Commission just identified third-degree sex offense, involving age-based elements, as the offense most likely to result in departures above the guidelines. Accordingly, the Commission revised the offense's seriousness category from a V to a IV. Dr. Soulé noted that the Commission always has the option to review the data and consider whether a seriousness category revision is warranted for a particular offense.



Judge Avery expressed support for examining the data related to specific offenses. Judge Avery noted, however, that it is not a part of the Commission's enabling legislation or purpose to send a message about what sentences ought to be. Judge Avery suggested that the Commission derives legitimacy for the guidelines by airing on the side of reflecting actual sentences that are imposed across the State to promote uniformity, consistency, and fairness across demographics and regions. The Commission engages in a detailed cell-by-cell compliance review to achieve this purpose. Judge Avery expressed concern that the Commission will lose legitimacy if it pushes too much on the side of prescriptive guidelines or uses the guidelines to tell judges what they should do. Judge Avery suggested that to do so would be stepping on the toes of the legislature and the discretion of judges. Judge Avery noted that the proposed revisions, developed by the staff and, voted for by the Guidelines Subcommittee, balance all considerations and credibly propose modest revisions.

Judge Wilson agreed with Judge Avery's sentiments. Judge Wilson stated that one of the goals of the guidelines is to be transparent across the State. Judge Wilson suggested that the Commission can revise seriousness categories when warranted, just as it did recently for third degree sex offense, involving age-based elements. Overall, though, the guidelines are an accurate reflection of what judges are doing. To that extent, the guidelines help guide judges and inform the public. Judge Wilson noted that the proposed revisions are not major but are significant because of the types of crimes being impacted. Judge Wilson stated that the proposed revisions are important because they reflect what judges have been doing, and that is the goal of guidelines. Judge Wilson expressed support for Judge Avery's position and any motion to approve the proposed revisions. There was a motion and a second to approve the proposed revisions to the sentencing matrices for drug and property offenses. Judge Avery called for further discussion. Hearing none, Dr. Soulé asked for any votes in objection to the motion. Mr. Harvey opposed the motion. The motion to tentatively approve the proposed revisions to the sentencing matrices for drug and property offenses passed 11 to 1.

Judge Avery thanked the Commission for their work on the proposed revisions. Judge Wilson thanked the staff and the Guidelines Subcommittee for their work.

## 5. Executive Director Report – Dr. David Soulé

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

- a. Opportunity to visit a State correctional facility. Proposed dates: November 22 or 23, 2021. (Status report)

First, Dr. Soulé noted that in light of the Commission's consideration of policy issues that have the potential to impact the correctional population, one of the newer members of the Commission had made an excellent recommendation and asked if a trip to a correctional facility could be arranged. Dr. Soulé noted that he had communicated with Secretary Green who had graciously agreed to arrange for a group of Commissioners to visit a correctional facility. Dr. Soulé proposed the dates of Monday, November 22<sup>nd</sup>, and Tuesday, November 23<sup>rd</sup>, and further proposed that



they visit the facilities in Jessup, as that is a location that is centrally located and hopefully convenient to a majority of the Commissioners. Anyone who would like to participate in the visit would need to be fully vaccinated or have proof of negative testing within 72 hours prior to the visit. Additionally, masks would be required as well as an entrance screening. Dr. Soulé then emphasized that participation was voluntary, but that he was asking for the Commission's input as to whether they were interested in attending, and if anyone who was interested in attending had a preference between the two proposed dates, and/or a preference as to the time of day. Mr. Scherer stated a preference for November 23<sup>rd</sup>. Dr. Soulé stated that he would send out a follow-up e-mail to the Commissioners, to give them more time to think about it, and that he would present November 23<sup>rd</sup> as the first option and would also provide some potential time frames.

b. Anne Arundel County Community Forum on Sentencing, November 18, 2021.  
**(Status report)**

Dr. Soulé stated that the second item he wanted to report on was the Maryland Judiciary's Equal Justice Subcommittee which, through the Judiciary's Community Outreach Subcommittee, is hosting community forums across the State to increase understanding of the courts and their services while learning the communities' needs and wishes, and ways that the Commission can provide better service. Dr. Soulé noted that on Thursday, November 18<sup>th</sup>, the Community Outreach Subcommittee would host a virtual forum on sentencing for Anne Arundel County, and that anyone could participate if interested. He further noted that he had been invited to participate as a panelist along with Judges Morris, Klavans, and Butcher from Anne Arundel County, as well as the State's Attorney, the district public defender, the court clerk, and Dr. Kareem Jordan who is the Director of Diversity and Inclusion at American University. Dr. Soulé stated that the forum was set to begin at 6:30 p.m., and that if anyone was interested in participating, members of the Commission could register to participate through a link on the MSCCSP website.

c. Review of format for December 7, 2021, public comments hearing/business meeting.  
**(Status report)**

Dr. Soulé stated that the final item to review was the format for the upcoming public comments hearing, which is scheduled for December 7<sup>th</sup> starting at 5:00 p.m. Dr. Soulé explained that the Commission's enabling legislation requires the Commission to hold an annual public comments hearing, and stated that the public comments hearing will be followed by a regular business meeting. Dr. Soulé commented that, as discussed, the Commission will use the hearing as an opportunity to call for comment on the proposed revisions to the sentencing matrices for drug and property offenses. The Commission staff will distribute a public comments hearing invitation and call for public comments on the proposed guidelines amendments shortly after the present meeting, and the invitation will be sent out the following Monday morning. Dr. Soulé explained that the proposed revisions will be posted to the Commission's website, and there will be a link on the invitation so people can review the proposed revisions. The hearing invitation and call for comment on the proposed revisions will be



distributed to key criminal justice stakeholders throughout the state, and also to the more than 1,000 criminal justice practitioners who receive the Commission's electronic newsletter. In addition, the hearing would be announced on the Commission's website, the Maryland Register, the Maryland General Assembly's hearing schedule, and through a press release by the Department of Public Safety and Correctional Services (DPSCS). The hearing announcement will indicate that the hearing will be live-streamed and provide a link to register to speak at the hearing or to simply observe the hearing via a YouTube live-stream.

Dr. Soulé encouraged the Commissioners to share the call for public comment and corresponding proposed revisions with any colleagues who may be interested in speaking about the proposed revisions. He reiterated that the call for comment would include directions for how to register for the meeting via Zoom. Dr. Soulé noted that the December 7<sup>th</sup> meeting was originally scheduled to be a hybrid meeting, with in-person participation as an option; however, due to concerns about the logistics Dr. Soulé and Judge Wilson agreed to proceed with a strictly online version of the meeting. Following today's meeting, Dr. Soulé stated that he would send an updated calendar invitation to reflect that the meeting is virtual instead of a hybrid meeting. Dr. Soulé explained that the invitation will not include a Zoom meeting link like it usually does; rather, the staff will register all Commission members. Each Commissioner will receive an individualized e-mail from Zoom with an individualized link. Dr. Soulé requested that Commissioners not share the Zoom link as it is individual to each Commissioner. Anyone who registered to speak at the meeting will also receive their own individualized invitation and link. Dr. Soulé asked if there were any questions about the protocol to be followed at the meeting. There were no questions. Dr. Soulé thanked the Commissioners and concluded his report.

## **6. Old business**

Judge Wilson asked if there was any old business that anyone wanted to review, and there was none.

## **7. New business and announcements**

Judge Wilson asked if there was any new business that anyone wanted to review, and there was none.

Judge Wilson thanked everyone for attending the meeting.

The meeting adjourned at 6:33 p.m.