



District of Columbia Advisory Commission on Sentencing

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FULL COMMISSION MEETING MINUTES

Wednesday, June 18, 2003
500 Indiana Ave., N.W.
Washington, DC

Attending	F. Weisberg	P. Riley	A. Flaum
	R. Johnson	N. Joyce	L. Hankins
	T. Kane	R. McPhatter	B. Weinsheimer
	P. Quander	D. Rosenthal	R. Buske
	J. Cronin	K. Hunt	C. Chanhatasilpa

I. Call to Order at 5:05pm and approval of November 19, 2003 minutes.

II. The Commission discussed the implementation of sentencing guidelines pending a Council vote. F. Weisberg noted that Councilmember Patterson strongly supported the pilot program in a meeting with Chief Judge King. R. McPhatter noted that the Commission's performance hearing on March 1 was a good time to present the plan, with introduction of the bill in February and mark-up in March. L. Hankins noted that the language could say something like the Council orders the Commission to work with the Court and deliver progress reports on a certain timetable, thus protecting the separation of powers.

P. Riley suggested that the pilot study period be 3 years to allow for the collection of sufficient number of sentences for all offenses. R. McPhatter responded that K. Patterson and some other Council members are under the impression that the study period would be 18 to 24 months. F. Weisberg and B. Weinsheimer agreed that there should be enough time to collect sufficient numbers of the more serious crimes and write a report on the analysis. F. Weisberg noted that the starting date would be the point at which all pleas and verdicts would require consideration of sentencing recommendations. P. Riley noted that the Commission can still produce regular reports during this data collection period as the data is collect. It was further noted that whether a pilot program or a permanent program, the guidelines are expected to become part of the Court's culture.

R. McPhatter stated that the Council was also under the impression that they would enact the guidelines recommendations after the pilot study. F. Weisberg noted that was one way to do it. K. Hunt added that states vary in the statutory detail devoted to the sentencing guidelines policies and procedures. L. Hankins summarized, saying that the Council has options, and may enact the grid after a sufficient period of time and experience to ensure that the ranges are appropriate, or it can choose not to enact the grid

into statute, in which case the pilot period could be shorter. P. Riley noted that other states with guidelines always have an ongoing sentencing commission, with funding in perpetuity.

III. Preparation for Sentencing Guidelines Implementation

A. User's Manual

K. Hunt summarized that the staff is working on a rough draft of a user's manual and the Commission needs to create an implementation subcommittee to continue and finalize the work. It was agreed upon that USAO, PDS and CSOSA (Edmund Pears) would be represented on this subcommittee. F. Weisberg suggested that the manual should provide an abundance of examples for users.

B. Outreach

K. Hunt announced that the Commission now has a D.C. government website (<http://acs.dc.gov/acs/site/default.asp>) and that the 2003 report will be up soon. The other reports are already on the website. Other additions/changes are anticipated shortly. N. Joyce suggested a shorter summary (e.g., 3 pages) be prepared.

R. McPhatter reiterated that the Council feels community outreach is its prerogative, and will ask for help as needed.

C. Training

F. Weisberg asked Commission members who would be responsible for training their respective constituents. L. Hankins stated that PDS would be responsible for training the defense bar and P. Quander added that CSOSA would train their own people. **Action Needed:** The CJA Bar website should be invited to provide a link to the 2003 Report.

Action Needed: The Commission agreed that for the vacant attorney position, a candidate with a dual background in defense and prosecution would be preferred, and the job announcement should reflect that preference.

Action Needed: N. Joyce noted that the Commission should also brief the Executive branch, including Deputy Mayor Kellems, Mr. Bobb, Chief Ramsey, and Mr. Spagnoletti.

IV. Citizen Survey

K Hunt presented the staff's work on a citizen survey, a project long delayed by funding snafus. The key reason for a survey of 1,200 local residents would be to provide citizen input into the issues of crime and punishment. He stated that a number of sophisticated techniques including crime vignettes and choices under fiscal scarcity have been developed to provide a more complete perspective on the issues of punishment and other options such as treatment and intermediate sanctions. The staff has been working with the Roper polling organization and Professor Mark Cohen on question wording.

Several Commission members expressed substantial reservations regarding going forward with this project at this late date. R. McPhatter noted that little purpose could now be served with a survey, as the Commission's proposal was final. T. Kane and N. Joyce agreed and noted that the downsides outweigh the upsides, and any questionnaire would have to be substantially altered to capture the Commission's proposal and the complexity of sentencing decisions. N. Joyce mentioned the work done at Citizen Summit III regarding trade-offs between policy options. **Action Needed:** Report at next meeting.

V. Computer Simulation

K. Hunt showed and summarized a slideshow presentation on the mandate from the City Council for the Commission to project any impact of its proposed policies and the use of computer simulation software to do this through the work of Applied Research Services, Inc. and their software, Simul8. First, K. Hunt specified the needs of the Commission in regards to using computer simulation. These include: assessing the impact of proposed policies, such as guidelines recommendations, revisions to guidelines, other legislation (e.g., mandatory minimums) on D.C.'s system and projecting the correctional populations under various dispositions types monthly and/or annually (prison, probation, supervised release, intermediate sanctions).

Computer simulation would allow the Commission to test every aspect of a proposed change without committing resources and to explore new policies or operating procedures without the expense and disruption of experimenting on the real system. It "creates" synthetic offenders based on such parameters as admission projections, demographics of offenders, current offense, prior history, disposition type, and sentence length. The software then simulates flow of offenders through court, prison, probation, intermediate sanctions, and supervised release.

Next, a flow chart that was used by Applied Research Services, Inc. for their work in Georgia was presented. This chart showed how the Simul8 software created offenders and the many paths to different modules (commitment, prison, probation, jail, parole) the offenders could take. This could be tailored to what the District system looks like (e.g., intermediate sanctions, supervised release).

N. Joyce noted that the simulation software's forecasting accuracy could be tested by comparing the projections to data Commission staff already has.

VI. Sentencing Guidelines Software Web

R. Buske proposed that the Commission consider a **Structured Sentencing Software Web** (SSSW), based on the experiences of Commissions in Pennsylvania and Virginia. After speaking with both PA and VA, K. Hunt decided that an electronic guidelines form would help pre-sentence report writers and judges complete guideline forms in a timely fashion, and would allow DCACS to report on compliance without delay. R. Buske noted that there were many problems with the Judicial Data Collection form, including forms being sent in late or in hard copy form that had to be retyped.

The SSSW, as envisioned, would be a password protected web browser based interface. In other words, authorized users would have an icon on their computer screen, which would allow them to log on to a secure server. Once users log in, they can then enter all necessary data for a particular case, including: offender information, offense, and criminal history. To reduce errors and speed up the process, the SSSW would calculate offense severity and criminal history for a user, once the user clicks on the appropriate offenses. In addition, the system would enforce mandatory minimums and statutory maximums (users would not be able to enter a sentence that did not comply with any statutory requirements).

Basically, once a user enters the offense and the criminal history, the SSSW would display the recommended guideline range. Next, the judge would enter the sentence for the particular offense. The SSSW would then either acknowledge that this was a compliant sentence within the guidelines, or would tell the user that the sentence is a departure. If the sentence is a departure, a list of either aggravating or mitigating factors would appear on the screen and the judge would be asked to pick one of the factors. If the judge chooses to pick the catch-all, it would include a box where the judge could write the reasons on the record. P. Riley noted that for the pilot, one of the acceptable reasons should be: "I chose not to follow the guidelines."

When a judge is finished filling out all of the necessary items regarding the sentence, he/she simply presses save and submits the form to the database. Once it is submitted, it is instantly available for administrative users to download for research or reporting purposes. The SSSW would allow administrative users to easily download compliance information into excel or SPSS or another software program.

Both PA and VA contracted with the Pennsylvania based Cross Current Corp. Cross Current is the only vendor DCACS has been able to identify which does this kind of work. However, Cross Current's initial bid is very high, so DCACS is going to enter negotiations as well as consider other options. K. Hunt noted that Cross Current has invited DCACS staff and any interested Commission members to come up to Pennsylvania and see the system in action. In addition, R. Buske stated that she has a demo CD that demonstrates the PA model, and that any interested Commission members could set up a meeting with her to see how it actually works.

P. Quander noted that this project is of particular interest to CSOSA, because it would make their jobs much easier if they were able to submit the necessary forms

electronically. He asked R. Buske to contact him so that he could give her the names of some of his IT people who would like to be involved in the planning process. F. Weisberg urged staff to not delay working on this project, since the introduction of a pilot program is fast approaching.

VII. P. Riley asked if she and USAO could disseminate copies of the historical grids because they were not included in the 2003 report. F. Weisberg responded that there were not constraints on doing this if only the results of analyses are available. Sensitive individual data should not be provided because they are property of the Superior Court.

VIII. Adjourn at 6:50pm

NEXT MEETING:
FULL COMMISSION
FEBRUARY 18, 2004 5:00PM