



## District of Columbia Sentencing Commission

441 4th Street, N.W., Suite 830 South, Washington, DC 20001  
Telephone (202) 727-8822 Fax (202) 727-7929

### **FULL COMMISSION MEETING MINUTES**

Wednesday, November 17, 2004

DC Superior Court  
Washington, DC

Attending	F. Weisberg	P. Riley	A. Flaum
	R. Johnson	D. Rosenthal	A. Morris
	B. Weinsheimer	L. Hankins	P. Quander
	H. Cushenberry	K. Hunt	
	R. Buske	S. Vance	

K. Hunt began by providing an update of the cases completed to this point. He stated 450 cases have been completed by CSOSA and that 150 counts/111 cases have been completed by the Court. The compliance rate has been extremely high. He noted that, of the 73 drug counts evaluated, virtually every one is in compliance. There are only three cases that have questions regarding the sentences given. The Commission does not have many, if any, departures thus far, although they are going to investigate “question” cases as well as missing cases.

A. Flaum asked if staff knew what the issue was with the missing cases. K. Hunt responded that the staff was not sure there were problems only that sentenced cases have lagged behind CSOSA’s sent cases. Some cases were being delayed due to the criminal history being questioned. He also mentioned that more than 50% of cases they have received thus far are drug cases. L. Hankins asked what percentage of cases are pleas and what percentage are trials. K. Hunt stated that the Commission will have this information once it downloads the Superior Court’s CIS data in the Spring 2005.

K. Hunt then related the status of the Sentencing Guidelines Web. He stated the SGW is in the quality assurance phase where certain pending security items are being addressed. He will be meeting with CJCC to discuss these security concerns. He estimates that the SGW project will be operational early in 2005.

### **REVISION OF MISSION STATEMENT**

K. Hunt then introduced the first order of business – the revision of the Sentencing Commission’s mission statement. He reminded the members that they requested that Commission staff develop proposed drafts of the mission statement. K. Hunt suggested that the Commission keep the original mission statement as a values or vision statement, but come up with a new mission statement that better explains what the agency actually does.

The Commissioners reviewed the proposed drafts and concurred that the first of the three mission statements was preferable, with alterations. They then made editorial suggestions to this version. D. Rosenthal, for instance, suggested that the word “monitor” replace the word “supervise.” R. Johnson noted that the Commission will be assisting the practitioners and be involved on a daily basis with sentencing practice. P. Riley thus suggested including to words “and support” to the mission statement. R. Johnson further opined that informing and educating the public about sentencing should be included as well. K. Hunt reminded that K. Patterson made the same point at the retreat. P. Riley therefore suggested including the following language: “increase public understanding of sentencing policies and practices.” P. Quander noted that other agencies have shorter, broad mission statements. H. Cushenberry agreed that P. Riley’s language would be sufficient.

Based on the suggestions from the Commission members, the revised mission statement is:

*“The mission of the District of Columbia Sentencing Commission is to implement, monitor, and support the District’s voluntary sentencing guidelines, to promote fair and consistent sentencing policies, to increase public understanding of sentencing policies and practices, and to evaluate the effectiveness of the guidelines system in order to recommend changes based on actual sentencing and corrections practice and research.”*

## **PRIORITIZING PURPOSES**

K. Hunt then turned to the final item on the agenda – prioritizing the purposes of the Sentencing Commission.

After reviewing the listed purposes of the Sentencing Commission, P. Riley opined that it is not possible to prioritize all the tasks until some time has passed. In other words, the tasks that involve analysis (analysis of guidelines ranges, offense severity rankings, criminal history scoring, dispositions, sentence variability, trial rates, acceptance of guidelines) should take place after a period of data collections. P. Riley suggested that these items be prioritized later. P. Riley further suggested that “data collection” be added as a high priority. She stated that the most important activity of the Commission was to stay on top of the forms that are being collected and to deal with the immediate problems that come up or with missing forms.

After being asked about what guidelines questions are being asked, S. Vance stated that out of state convictions are the most common, and that there are three or four times as many questions about Maryland than there are about Virginia. K. Hunt explained that the original plan of a one to one crosswalk between DC and out of state convictions will not work since many of the offenses do not exactly match up. S. Vance suggested that looking at the 50 most common crimes in Maryland might be a better way to start, since they are likely to be the offenses that most commonly need to be addressed. As a result, R. Johnson suggested that something about out of state convictions be added to the list of “purposes.”

A. Flaum, P. Riley, and R. Johnson asked about the status of creating a “crosswalk” or “statutory correlations” between DC offenses and out-of-state offenses. S. Vance explained

that, based on his experience, there is virtually never a direct, one-to-one correlation between offenses. There are generally numerous qualifications when determining the most comparable DC offense for an out-of-state conviction. Because most out-of-state convictions come from Maryland, P. Riley suggested that S. Vance develop a list of comparable offenses for the 50 most common Maryland offenses. If it is not possible to obtain the 50 most common Maryland offenses, P. Riley suggested using the 50 most common DC offenses as a rough guide.

B. Weinsheimer suggested that a new purpose be added: “refining and revising the Sentencing Guidelines.” He noted that amendments to the Guidelines have been necessary to account for unforeseen issues, for instance with respect to enhancements. He confirmed that the amendment process will be on an annual cycle. In the interim, important amendments should be added to the Frequently Asked Questions section of the website.

K. Hunt asked if it is possible to rank and prioritize the purposes. P. Riley opined that it breaks down more between short term and long term, and short term purposes are more pressing.

Speaking about the “acceptance of the guidelines” priority, R. Johnson suggested that the Commission develop a brief email survey that could be sent to Judges in the near future. F. Weisberg noted that he will be facilitating a guidelines training session for judges in early December.

H. Cushenberry expressed his opinion that the defense attorneys have little understanding of the details of the Sentencing Guidelines, and that they rely on the conclusions of the Judges and Court Services Officers. He stated there is very little dispute or controversy surrounding the Sentencing Guidelines calculations, and in his experience when there is it comes from questions by the judge or the judge’s law clerk. This is clearly a concern, voiced also by L. Hankins, who wondered if other judges not on the Commission are missing errors. S. Vance affirmed that basic questions are no longer being asked by CSOSA staff, but that the private defense bar still calls with basic questions.

L. Hankins and D. Rosenthal suggested that a new priority be added – “development of out-of-state code correlations” – which would be included under the heading of “refining and revising guidelines.” P. Riley suggested it would be helpful to have a breakdown of Commission staff duties to help prioritize.

L. Hankins asked about the second bullet point – assessment on impact on correctional resources. She asked whether this was necessary given that the District’s correctional resources are federally funded. K. Hunt agreed this was not the highest priority, but he noted that it is required by statute. F. Weisberg also reminded the Commissioners that this item may be relevant due to the impact on the DC jail. F. Weisberg noted that the Simulation Model does not measure the key area of concern for DC, and that the guidelines are causing a delay in sentencing which leads to defendants spending more time in jail. He questioned whether or not the Commission would be able to cut down on this extra time. P. Quander stated that he was hopeful that they could, but cautioned that as of now there are very few cases that involve disputed Criminal History that are in Court. If the number of disputes increases, which is expected, we may find that we really need the extra two weeks.

Turning to the third bullet point – examining the “effectiveness” of sentences – L. Hankins asked how this is defined. K. Hunt noted that recidivism is one measure. Another measure is drug use. P. Quander expressed concern that the term “recidivism” is broad and needs to be specifically defined. L. Hankins recommended moving this priority down and moving the fourth bullet point – ad hoc analysis in response to requests for sentencing information – to the second priority after the “promulgation of guidelines” bullet point.

K. Hunt stated this feedback is helpful and that the staff would make changes to facilitate future discussion about the priorities. He noted that among the uses for refined goals and objectives, in addition to the internal uses for staff and Commission oversight of priorities, was the District’s Performance Based budgeting system (PBB). As an independent agency of the District, the Commission is required to submit its budget in PBB format, and set performance objectives. The group discussed this requirement. D. Rosenthal volunteered to work with the staff to develop possible activity performance measures.

F. Weisberg suggested that we include the Sentencing Guidelines Web as well. He believes that revisions will be necessary in the future, as they were in Pennsylvania.

The next Commission meeting was tentatively scheduled for December 15, 2004. It was agreed that the meeting would be held only if the agenda merited it.

Adjourned 6: p.m.

#### Prioritize Purposes of the Sentencing Commission (w/ November 17 changes)

- Promulgation of Guidelines SHORT TERM
  - o Manual and Website maintenance in support of guideline policies and procedures,
  - o Timely data collection of both manual forms (short term) and automated forms (in development),
  - o Refining and revising the Sentencing Guidelines (to include development of out-of-state code correlations),
  - o Training and requests for assistance with guideline scoring,
- Perform ad hoc analysis in response to requests for sentencing information from policy makers, the press, and the public,
- Promulgation of Guidelines LONG TERM
  - o Monitoring of compliance/departures,

- o Annual reporting of cases entering the system, case processing, and sentences imposed,
  - o Analysis of guidelines ranges (for possible refining and revising the Sentencing Guidelines),
  - o Analysis of offense severity rankings (for possible refining and revising the Sentencing Guidelines),
  - o Analysis of criminal history scoring (for possible refining and revising the Sentencing Guidelines),
  - o Analysis of dispositions within shaded regions (for possible refining and revising the Sentencing Guidelines),
  - o Impact of guidelines on sentence variability, trial rates, etc.
  - o Acceptance of guidelines (brief email surveys and other measures of the “pulse” of practitioners).
- Impact assessment of changes in sentencing practice on correctional resources (Including jail delays if possible) using DC Guidelines simulation technology,
- Assemble information on the effectiveness of sentences of various kinds,
- Omnibus review of sentencing systems every ten years.