



# District of Columbia Sentencing Commission

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## FULL COMMISSION MEETING MINUTES

Tuesday, January 18, 2005

DC Superior Court

Washington, DC

Attending	F. Weisberg	P. Riley	H. Cushenberry
	B. Weinsheimer	L. Hankins	P. Quander
	A. Seymour	B. Forst	C. Chanhatisilpa
	R. Buske	S. Vance	K. Hunt

I. Brian Forst, professor at American University, was introduced as the newest Commission member. He replaces Charles Wellford. B. Forst briefly summarized his background and experience in sentencing issues, and noted his willingness to serve.

The 3<sup>rd</sup> Tuesday of each month was proposed as the new meeting day. It was agreed upon by the Commission members who were present.

The minutes from the November 17, 2004 meeting were approved pending any modifications that are sent to K. Hunt by week's end.

## II. Monitoring Guidelines and Departure Reasons

K. Hunt provides an update. He states that the current paper system has given the Staff over 300 completed forms so far, with about 90% compliance rate. Of the 30 departure sentences, most involved either criminal history scores that were revised or corrected later, or inadvertent departures.

F. Weisberg noted that there needs to be a mechanism by which feedback on such coder errors are relayed to CSOSA. P. Quander added that he would like to be notified of the changes in criminal history scoring. [Action needed]

K. Hunt goes over the sample Guideline Conformity Note. The language and form were approved pending typo corrections. K. Hunt added that 30 notes were sent out to judges and replies received on approximately half of these. He asked what would be a good method to follow-up on these requests. F. Weisberg and P. Riley suggested that he should follow-up with a phone call to the law clerk. F. Weisberg noted that he can also assist directly if need be. [Action needed]

P. Riley found it troubling that Commission staff has only received a little over 300 completed forms thus far. She estimated that there should be well over 600 forms by now. B. Forst asked if there was a master list we can validate the numbers against. K. Hunt responded that this was requested of Quality Assurance (QA) previously and they provided a list that was not very helpful. P. Quander added that CSOSA should be able to run a census on how many cases CSOSA has initiated. He added that there does not appear to be a backlog at CSOSA. K. Hunt suggested the staff can also do another count to assess what is missing. P. Riley noted that there is a daily count that is kept by USAO and that she can also see how many cases there are.

F. Weisberg stated that the problem appears to lie in the process at Quality Assurance. K. Hunt suggested that the first step to assessing what is missing is to have Staff tally up the number of CSOSA guidelines forms we have now, particularly the older forms, and determine if we have a completed form from Quality Assurance and/or a Judgment and Commitment order. H. Cushenberry added that he can talk to Quality Assurance staff to determine what their process is.

*[Update: H. Cushenberry is polling judges to determine whether the judges are seeing a form in all felony cases, and has discussed the problem with QA. P. Riley provided a count on January 26. She reports a total of 1457 felony cases that were sentenced between August 16, 2004 and January 18, 2005. However, this number is likely inflated to some extent by probation revocations for non-guidelines cases, and will require more investigation. As a starting point, Staff identified 337 eligible felony cases to date that are missing actual sentences, and QA is retrieving those.]*

### III. Implementation Issues: Criminal History Scoring

S. Vance briefly updated the Commission on the status of amending the sentencing guideline rules for comparing out-of-state convictions. He explained that the Commission staff has been working with the implementation subcommittee on a weekly basis to craft, create, and amend rules to adapt to unexpected situations. He stated that two revisions to the rules have been made since the Practice Manual was drafted. The first revision was in September 2004 and the second revision was in December 2004. These revisions were made to address issues such as whether to rely on another state's classification of an offense as a misdemeanor or felony, and whether to examine the underlying conduct of a prior offense when determining the most comparable DC offense. Per B. Weinsheimer's request, S. Vance is currently creating a list of examples of how the latest set of rules are working in practice. He hopes to complete this report within one to two weeks, at which point it is hoped that the implementation subcommittee will be able to agree on those rules.

Meanwhile, the Commission has been implementing the latest set of rules, and anyone calling the Commission with questions has been made of these rules as well. However, many parties are of course unaware of these rules at this point. L. Hankins suggested that each agency (CSOSA, PDS, USAO distribute these new rules within their offices). Once the implementation subcommittee finalizes the rules -- hopefully in February -- the

Commission will officially disseminate the rules to the criminal justice community, and they will be added to the next edition of the Practice Manual.

#### IV. Community Outreach

K. Hunt reminded the Commission that they had agreed at the Retreat to turn part of their focus to community outreach. He asked A. Seymour to explain some of her ideas on the subject.

A. Seymour stated that the Commission should see developing the guidelines as a beginning rather than an end. She believes the Commission should develop a public outreach strategy to ensure that people in DC—victims and their families, offenders and their families, neighborhood leaders and interested citizens—understand what the new guidelines are and how they will be used. She then outlined the major ideas that she and staff have, which include: a 500 word essay (basically Sentencing Guidelines for Dummies) for ANC newsletters and other publications, a 30 minute presentation on the guidelines to give to citizens' groups (tested first on Commission members), and a summary of Frequently Asked Questions (FAQs) for the website. She also stated that all efforts should involve the DC Council members, who all have their own strategies for reaching the public.

A. Seymour directed Commission members to review the summary prepared by staff of what other states are doing and then asked Commission members if they had any ideas. L. Hankins stated that there were other publications they could send the article to, including Council newsletters and **The Mail**. B. Forst added that the National Institute of Justice might be interested in running a conference on this subject, as a good way for states to share information with each other. A. Seymour also noted that the Commission should try to get other groups to place a link to the Commission's website on their sites.

A. Seymour also mentioned that she would be working with staff to develop a strategic plan for the next three+ years. Commission members agreed that public outreach was important and agreed to send Kim any information or ideas that they had.

#### Update on Cross Current

F. Weisberg asked staff for an update on the Cross Current project. K. Hunt explained that Cross Current has begun Quality Assurance testing of the DC Sentencing application, and are continuing to perform application improvements and modifications. He stated the major outstanding issue is the ranking of armed attempts, which the subcommittee has been working on recently.

F. Weisberg asked if the stand-alone application (developed for court personnel who want to figure out what an offender is facing) would calculate all of the intricate criminal history rules. K. Hunt stated that he was not sure if it would, since the Sentencing Commission was not directly involved in the development of this project. He said that staff could find out and report back to the Commission. [Follow-up needed]

Adjourn: 6:15PM

**Next Meeting:** Tuesday, February 15 at 5:00 p.m. in **Room 3300**, Superior Court