



# District of Columbia Sentencing Commission

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## **FULL COMMISSION MEETING MINUTES**

Wednesday, February 15, 2006

441 4<sup>th</sup> Street

Washington, DC

Attending	F. Weisberg	P. Riley	B. Forst
	H. Cushenberry	JD King	N. Joyce
	D. Rosenthal	B. Weinsheimer	P. Quander
	R. Buske	S. Vance	K. Hunt
	C. Chanhataasilpa		

- I. Call to order at 5:15 p.m. H. Cushenberry called the meeting to order and approved the minutes from January 17<sup>th</sup> pending any changes given to staff.
- II. Strategic Planning Retreat Follow-up Part 2

K. Hunt continued to summarize key points and the activities to be done by staff as a result of discussions during the November retreat and the January 17<sup>th</sup> meeting.

### General Issues

First, he explained that the Commission discussed whether we have sufficient data to make data-driven decisions. He explained that at the January 17 meeting, the Commission directed the staff to plan a study to document missing data and search for any evidence of biased reporting because of the missing sentencing forms.

Second, K. Hunt recalled that the Commission discussed whether unwarranted disparity has been reduced by the guidelines. He explained that the Commission requested that the staff begin to collect data, but that any findings should wait until after the December 2006 report due the insufficient data at the current time or near future.

Third, K. Hunt reminded the Commission that anecdotal evidence could be valuable to supplement the data. For instance, do guidelines reduce caseloads or time-to-sentencing through faster pleas? He recalled that the Commission believes additional focus groups with judges, prosecutors, and defense attorneys would be helpful. At the Retreat, the Commission responded with a “strong yes” to go forward with a more quantitative study.

H. Cushenberry responded that he believed that the guidelines increased certainty of punishment, but he was not sure that it decreased disposition time. F. Weisberg asked how much staff time and resources would be required for a rigorous study of this issue. B. Forst opined that focus groups might be the most valuable tool, given that there are numerous other factors that could influence the disposition time, including a reduced caseload after guidelines. F. Weisberg added that, based on comments from the CJA focus group, the pre-sentence report has not been prepared in advance of sentencing consistent with the guidelines rules. He suggested this issue be studied more to determine if this is in fact the case and, if so, where the delay is. P. Quander responded that CSOSA could assist in studying this issue. P. Quander also noted that he has heard many success stories where the arrest-to-plea time has been reduced. He wondered if this could be shown by the data. B. Forst again suggested that other relevant factors (e.g., caseload before and after the guidelines) be considered.

F. Weisberg stated it would be helpful to empirically prove disposition time has been reduced, but he believed that it might be difficult to attribute any change in case processing time to the guidelines. P. Riley cautioned that the Court's computer new data system may have problems with accuracy, and recommended studying a large sample of court jackets. K. Hunt added that this might be a "bang for the buck" issue – is this effort worth it considering the necessary resources and potential methodological problems? J. King suggested that the anecdotal evidence through focus groups might be the best first step before determining whether to conduct a study. He noted PDS could take part in a focus group, which is divided in two groups of lawyers by the type of offenses they handle, given there is reason to believe disposition time may be affected by the type of offense.

#### Guidelines Rules Issues

K. Hunt asked whether the criminal history rules are too complex and need to be reconsidered. F. Weisberg stated that he would like to reconsider the criminal history rules to see if they should be changed to better represent the goals of the process. P. Quander stated he did not believe complexity was a problem, though he suggested asking this question at future focus groups. S. Vance, in response to a question, believed that complexity of the rules was not a problem. The majority of questions from court services officers and attorneys are in regard to out-of-state convictions, which will always have some degree of complexity. The Commission determined it was not necessary to address this question at this time.

K. Hunt next asked whether it would be necessary to address the definition of an "event." The Commission recognized there was minimal guidance here, but did not believe this issue should be addressed again due to lack of necessary data and other issues.

Third, K. Hunt asked whether there should be more guidance with regard to long splits and short splits. P. Riley did not believe it was important to change this rule.

D. Rosenthal agreed, and added that the 2006 report to the Council should explicitly designate and explain the “tweener” cases. B. Weinsheimer suggested that, for time served sentences, they might want to change the rule and add a box to the guidelines form that would designate these sentences as compliant. However, other “tweeners” are not compliant with the guidelines and should not be called compliant. P. Riley suggested this issue should also be addressed with focus groups. J. King stated this issue has been somewhat confusing and that it would be helpful to explain it further and address the sentencing philosophy that led to the guideline rules for short splits. K. Hunt noted the Commission could resume discussing this in the future.

Fourth, K. Hunt asked whether there should be more guidance regarding the in/out decision. F. Weisberg suggested researching this issue closely. He added that certain variables, such as race, gender and age of the offender would be of particular interest. B. Forst agreed that this is an important research activity to see which cases are falling “in” and which ones are falling “out.” J.D. King suggested looking at systems that have some boxes that are presumptively probation.

Fifth, K. Hunt asked whether there should be more guidance on how intermediate sanctions should be used by judges. P. Quander noted that CSOSA currently has an intricate system of rewards and punishments that does not involve immediate revocation to prison. P. Riley and F. Weisberg suggested that the annual report contain a discussion of CSOSA’s activities regarding intermediate sanctions and that CSOSA is responsible for these programs, as required by the statute. P. Quander stated he had some statistics and could assist in developing this section of the report.

### Compliance

K. Hunt briefly discussed this section by stating that the staff will continue to collect sentencing information and report compliance rates.

### Legal Issues

K. Hunt then turned to the issue of whether the sentencing guidelines should be codified in statute. P. Riley suggested that the statute only state that the guidelines and the Commission are to continue, and that the Commission has the ability to make future changes. F. Weisberg asked that someone create a section on codification for the annual report. N. Joyce suggested there be a clause for “active approval of regulations” in the law. P. Riley asked that S. Vance review the codification approaches of other states.

### Ranking of Offenses

K. Hunt recalled that the Commission’s last meeting covered the rankings of offenses and questions about what the commission can say about individual

offenses - whether there is sufficient data, whether offenses were grouped correctly, and whether they should be subdivided. The Commission determined at the last meeting that the staff should analyze offenses where data are available, but that an analysis of all offenses would not be possible. P. Riley agreed that more serious offenses with less than 10 cases cannot be analyzed.

B. Forst suggested that the Commission look, not just at offense severity, but also criminal history, particularly at the margins. P. Riley, F. Weisberg, and P. Quander stated they would like to look closer at certain subcategories such as robbery, burglary, ADW, and CPWL that may be separated across different severity groups.

#### Public Outreach

K. Hunt next turned to the issue of organizing the Commission's efforts at public outreach. He stated that A. Seymour suggested not only contacting ANC's but PSA's as well. N. Joyce added that Citizen Advisory Commissions (CAC) were also useful groups to contact.

F. Weisberg noted it was not too early for the staff to begin a rough draft of the next annual report.

Adjourn: 6:30 pm

NEXT FULL COMMISSION MEETING:

Tuesday, March 21, 2006