



## 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

Thursday, January 18, 2007  
441 4<sup>th</sup> St., N.W., Room 1112  
Washington, DC

Attending	F. Weisberg	P. Quander	V. Johnson
	R. Johnson	L. Hankins	A. Asunción
	D. Rosenthal	P. Riley	C. Chanhatasilpa
	K. Hunt	S. Vance	S. John

- I. Call to order at 5:10 p.m. The Commission approved the October 19, 2006 meeting minutes pending any changes.

F. Weisberg stated that a copy of the annual report along with the cover letter should be sent to Vincent Gray as the new chair of the Council.

- II. Criminal Code Revision work plan and subcommittee

F. Weisberg noted that there is a March 31 deadline for the subcommittee to submit a workplan/timeline for criminal code revision. He added that S. Vance has been doing some research on how other States (including Illinois, Arizona) have handled criminal code revision.

K. Hunt stated that there is a public meeting that needs to be scheduled in order to vote on certain issues such as ranking of new offenses. F. Weisberg prefers Tuesday meetings so that B. Forst can attend.

The question of Council appointments arose, including the new slots for three researchers and the citizen member (Julie Stewart has resigned). After some discussion, L. Hankins asked if we can persuade the Council or P. Mendelson to extend the March deadline, in light of the new members and the substantial workload. R. Johnson added that the search to fill these 3 positions and the one vacated by Julie Stewart will affect the Commission's ability to establish a quorum. This is another reason to ask for an extension of the March deadline.

D. Rosenthal suggested that the subcommittee should identify what needs to be done and the time frame for each item. F. Weisberg agreed that the plan should contain what the subcommittee will do in rank order of priority and the time needed for each task.

P. Quander brought up the issue of the lack of resources and funding to add more personnel for this work. F. Weisberg and K. Hunt mentioned that there is now a position open with the Commission staff that could be used to assist. L. Hankins suggested discussing this issue with P. Mendelson.

### III. Ranking of New Crimes

P. Riley previously sent out a memo that presented the USAO's proposal for ranking some of the new sex and prostitution offenses from the Omnibus legislation following an implementation subcommittee meeting. The subcommittee had previously agreed that all Enticing offenses (five year statutory maximum) are ranked as Group 8. The memo proposed the following:

- First degree sexual abuse of a minor (15 years) -- Group 6
- Attempt first degree sexual abuse of a minor (7 1/2 years) -- Group 7
- Second degree sexual abuse of a minor (7 1/2 years) -- Group 7
- All Felony prostitution offenses (Pandering, Procuring, Compelling, Abducting) involving a minor (20 years) -- Group 5
- Compelling an adult to engage in prostitution (22-2706) (15 years) -- Group 6
- All other felony prostitution offenses (pandering, procuring) involving an adult (5 years) -- Group 9

According to the memo, the proposal "follows the basic rationale that the maximum sentence controls for offenses involving sexual acts or contacts and reflects current rankings -- at least for the time being." L. Hankins and PDS agreed to these proposals, and the full Commission will vote on them at the February public meeting.

The Commission then turned to how to rank the new felon in possession of a firearm offense. P. Riley argued that it is a more serious offense than CPWL and should be ranked accordingly. Thus, it should be in Group 7, not 8. V. Johnson argued that it should be ranked as group 8. P. Quander noted he was comfortable with group 8. F. Weisberg requested that the USAO and PDS prepare written statements of their positions for consideration at the next full Commission meeting.

### V. Whether to Count Prior Offenses "Dismissed After Adjudication"

The Commission then addressed whether to count prior juvenile offenses listed as "dismissed after adjudication." L. Hankins argued that the law change in 2004 did not change the statute subsection that requires that judges terminate the proceedings if (and only if) they find that the juvenile is not in need of care and rehabilitation. This subsection is the only legal authority for such dismissals. L. Hankins argued that the Commission should assume that judges followed the law and therefore,

when they dismissed the cases, they had made a finding that the juveniles were not in need of care and rehabilitation. With no finding of need for care and rehabilitation, there is no disposition and the Commission's policy is not to count cases that did not result in disposition. D. Rosenthal agreed with Hankins' legal analysis but argued that actual judicial practice was different and provided sample case jackets, which he believed demonstrated the careful use of the term "dismissed after adjudication" as distinct from cases that were dismissed pursuant to Family Court Rule 48(b), the latter cases being those where the judge explicitly found the juvenile was not in need of care and rehabilitation. Rosenthal argued that "dismissed after adjudication" cases were those where, between 1993 and 2004, the judge found that the child both committed an offense that would be a crime if the child was an adult and was also in need of care and rehabilitation but closed the case anyway. As the Court made both findings, these cases meet the definition of what the Commission counts for criminal history. F. Weisberg suggested that a briefing paper be prepared by both sides of the issue and presented at February meeting. F. Weisberg further requested that staff make sure there is a quorum for the next meeting.

Adjourned at 6:40 p.m.

NEXT FULL COMMISSION MEETING:

PUBLIC MEETING for the purpose of a vote on ranking offenses

February 27, 2007 at 5 p.m.

Room to be announced