



The Sentencing Guideline

A publication of the National Association of Sentencing Commissions

National Association of Sentencing Commissions

Executive Board

Meredith Farrar-Owens, President
Deputy Director,
Virginia Criminal Sentencing Commission
Meredith.Farrar-Owens@vcsc.virginia.gov

Kara P. Dansky, Vice President
Executive Director,
Stanford Criminal Justice Center
KDansky@law.stanford.edu

Helen Pedigo, Treasurer
Executive Director,
Kansas Sentencing Commission
helenp@sentencing.ks.gov

Kevin Blackwell, Secretary
Senior Research Associate,
U.S. Sentencing Commission
KBlack@ussc.gov

Lynda Flynt
Executive Director,
Alabama Sentencing Commission
Lynda.Flynt@alacourt.gov

Linda Holt
Research Director,
Massachusetts Sentencing Commission
Linda.Holt@jud.state.ma.us

David Soulé
Executive Director,
Maryland State Commission
on Criminal Sentencing Policy
dsoule@crim.umd.edu

Inside this issue:

Annual Conference	1
President's Message	2
Conference Agenda	4
Alabama	6
Alaska	8
District of Columbia	10
Maryland	10
Massachusetts	12
Minnesota	13
North Carolina	14
Ohio	15
Pennsylvania	15
NASC Contact List	18

2010 NASC Conference

Sound Sentencing Policy: Balancing Justice and Dollars
August 8-10, 2010
Point Clear, Alabama



The Alabama Sentencing Commission is proud to host the 2010 NASC conference at the beautiful Grand Hotel Marriott Resort in Point Clear, Alabama.

Now in its 16th year, NASC brings together judges, legislators, policy makers, academics, researchers, and practitioners from around the country to examine our nation's experiences with sentencing laws and practices and to discuss emerging issues and innovations. This year's conference is entitled "Sound Sentencing Policy: Balancing Justice and Dollars."

With this timely theme, the conference will offer plenaries, workshops and roundtable discussions on sentencing policies and the hurdles sentencing commissions and criminal justice officials must overcome during these times of shrinking budgets and scarce resources, as well as innovative ways that states have faced these challenges.

President's Message

On August 8-10, 2010, the National Association of Sentencing Commissions (NASC) will hold its annual conference in Point Clear, Alabama, along the historic Mobile Bay.

The theme of this year's conference is "Sound Sentencing Policy: Balancing Justice and Dollars." Given the troubled economic times and the significant budget reductions in most states, we hope to create a forum for attendees to discuss the challenges they face in balancing criminal justice resources and public safety goals and to provide attendees an opportunity to hear about a variety of approaches in dealing with these issues. We will begin each morning of the conference with a thought provoking plenary session. In lieu of formal panel sessions this year, we have planned a variety of roundtable and workshop sessions designed to engage participants in active discussion of critical issues.

Please visit the conference website at <http://nasc2010.alacourt.gov/> . Through the website, you can register, make hotel reservations, and view the conference agenda. The conference date is fast approaching and I hope that you will make your plans to attend.

I would like to extend a heartfelt thanks to our host, the Alabama Sentencing Commission, their director, Lynda Flynt, and her entire staff for all of their hard work in preparing for our conference.

As a closing note, we have two positions up for election on the NASC Executive Committee. Voting will take place during the conference and the results will be announced during Tuesday's luncheon. If you are interested in running for the Executive Committee, please let me know as soon as possible. Serving on the NASC Executive Committee has always been very rewarding for me and I invite you to share in this experience.

On behalf of the NASC Executive Committee, we look forward to seeing you in Alabama!
Meredith Farrar-Owens, NASC President

Conference Registration

The registration fee includes a reception on Sunday evening, and breakfast and lunch on Monday and Tuesday.

- ▲ \$375.00 if paid before July 12, 2010
- ▲ \$450.00 if paid on or after July 12, 2010

To register online go to: <http://nasc2010.alacourt.gov/registration.html>

When registering and paying with a check, click below to print the registration form:
http://nasc2010.alacourt.gov/NASC%202010_Registration_Paper%20Form.pdf

Cancellation Policy

- Full refund for cancellation prior to July 12, 2010
- \$50 administrative fee if cancellation occurs from July 12 to July 25, 2010
- No refund for any cancellation on or after July 26, 2010

National Association
of Sentencing Commissions

2010 Annual NASC Conference

August 8-10, 2010

Grand Hotel Marriott Resort, Golf Club & Spa
Point Clear, Alabama

Get
to the
Point!
Point Clear,
Alabama

The National Association of Sentencing Commissions (NASC) was created to facilitate the exchange and sharing of information, ideas, data, expertise, and experiences and to educate on issues related to sentencing policies, guidelines and commissions. Every year, the NASC conference brings together judges, legislators, correctional officials, policy makers, academics, researchers, and practitioners from around the country to examine our nation's experiences with sentencing laws and practices and to discuss emerging issues and innovations.

Grand Hotel Marriott Resort

Experience a stunning beach resort in Point Clear, Alabama - the exquisite Grand Hotel Marriott Resort, Golf Club & Spa. Overlooking scenic Mobile Bay and offering a dramatic departure from standard Gulf Coast resorts, this grand beach resort boasts two challenging golf courses as part of the Robert Trent Jones Golf Trail. It also features a luxurious 20,000 square foot European-style spa, a fabulous array of exceptional dining options, and a sizeable marina for sailboats, yachts, and fishing boats. The delightful beaches and extraordinary pool complex offer plenty of entertainment for the whole family. The Marriott Grand, the Queen of Southern Resorts, is an escape from ordinary Gulf Coast beach resorts.



The Grand Hotel Marriott Resort, Golf Club & Spa 1 Grand Boulevard, Point Clear, AL 36564

Reservations: The conference hotel is the Grand Hotel Marriott Resort on historic Mobile Bay. The hotel conference rate is \$125 plus tax. You must make your reservations by July 16 to take advantage of this special rate. Reservations may be made through the conference website or by calling the hote1 directly at (800) 544-9933. Ask for the "NASC 2010" group code when making your reservation by phone.

Transportation: The Mobile, Alabama, airport is 46 miles from the Grand Hotel, with the Pensacola, Florida, airport 65 miles away. The Grand Hotel's Transportation Department has guaranteed conference attendees a discounted rate of \$40 per person (one-way) to and from each airport listed above. In order to receive the discounted rate and reserve your transportation, you must contact the hotel's transportation department via email or telephone and make arrangements prior to the conference but no later than August 3rd.

Grand Hotel Transportation Department Phone (251) 928-9201 ext. 6624
Email: transportation@marriottgrand.com

Conference
Accommodations

TENTATIVE AGENDA AND SPEAKERS

SUNDAY, AUGUST 8, 2010

TIME	EVENT
3:00 pm	Registration Begins
5:00 pm	Reception

MONDAY, AUGUST 9, 2010

TIME	EVENT
7:30 am	Breakfast
8:30 am	Welcomes and Introductions Meredith Farrar-Owens, NASC President/Deputy Dir., Virginia Sentencing Commission Hon. Sue Bell Cobb, Chief Justice, Alabama Supreme Court Hon. William Pryor, Circuit Judge, US Circuit Court of Appeals Hon. Joseph Colquitt, Chair, Alabama Sentencing Commission
9:00 am	Plenary: <i>Balancing Justice and Dollars</i> Panelists: Chief Justice Sue Bell Cobb, Alabama Supreme Court Patricia Riley, Special Counsel, U.S. Atty's Office for the DC Circuit Moderator: Kara Dansky, NASC Vice President/ Director, Stanford Criminal Justice Center
10:30 am	Break
10:45 am	Roundtable Discussions Role of Sentencing Commissions: Commissions Rise and Lead Judge Michael Marcus, Multnomah County Oregon Circuit Court Dabney Friedrich, Commissioner, US Sentencing Commission Moderator: Dave Soulé, Dir., Maryland State Commission on Criminal Sentencing Policy Drug Courts Daniel Abrahamson, Director of Legal Affairs, Drug Policy Alliance West Huddleston, CEO, National Association of Drug Court Professionals Moderator: Helen Pedigo, Director, Kansas Sentencing Commission Project HOPE Angela Hawken, Assistant Professor, School of Public Safety, Pepperdine University Moderator: Linda Holt, Research Dir., Massachusetts Sentencing Commission Truth in Sentencing Judge Joseph Colquitt, Chair, Alabama Sentencing Commission Judge Robert J. Humphreys, Vice Chair, Virginia Sentencing Commission Jeffrey Edblad, Chairman, Minnesota Sentencing Commission Moderator: Lynda Flynt, Director, Alabama Sentencing Commission
12:30 pm	Luncheon Speaker: Hon. William Pryor, Circuit Judge, 11th U.S. Circuit Court of Appeals

TENTATIVE AGENDA AND SPEAKERS

MONDAY, AUGUST 9, 2010 CONT.

TIME	EVENT
2:00 pm	<p>Workshop Session 1:</p> <p>Data Collection and Utilization Dr. John Speir, Applied Research Services Glenn Schmitt, Dir., Office of Research & Data, US Sentencing Commission Moderator: Melisa Morrison, Research Analyst, Alabama Sentencing Commission</p> <p>Bringing Risk/Needs to Scale Brian Lovins, Research Associate, University of Cincinnati Jennifer Fahey, Crime and Justice Institute Moderator: Craig Prins, Director, Oregon Criminal Justice Commission</p>
3:15 pm	Break
3:30 pm	Workshop Session 1 Continued

TUESDAY, AUGUST 10, 2010

TIME	EVENT
7:30 am	Breakfast
8:30 am	<p>Plenary Session 2: State and Federal Sentencing: Lessons Learned from the Struggle to Balance Justice and Dollars Bobby Vassar, Chief Counsel, US House of Representatives Honorable Floyd Prozanski, Senator, Oregon Moderator: Meredith Farrar-Owens, NASC President/Deputy Dir., Virginia Sentencing Commission</p>
10:00 am	Break
10:15 am	<p>Workshop Session 2: Impact Assessments Helen Pedigo, Director, Kansas Sentencing Commission Dr. Lou Reedt, Deputy Director, Office of Research and Data, US Sentencing Commission Moderator: Barb Tombs, Executive Director, DC Sentencing and Criminal Code Revision Commission</p> <p>Risk/Needs Assessment at Sentencing Judge Michael Wolff, Missouri Supreme Court David Oldfield, Director, Research and Evaluation, Missouri Dept. of Corrections Moderator: Meredith Farrar-Owens, NASC President/Deputy Dir., Virginia Sentencing Commission</p>
11:15 am	Break
11:30 am	Workshop Session 2 Continued
12:30 pm	Business Luncheon
2:00 pm	Roll Call of States

Alabama



Alabama Achieves Partial Success during 2010 Legislative Session and Continues Work on Alternative Sentencing Options and Development of Truth in Sentencing Standards

While the Alabama Sentencing Commission did not achieve total success during this year's legislative session, it was fortunate to have enacted one of its three bills, the bill amending Alabama's Community Corrections Act in a way that will encourage the use of community corrections as an alternative to prison. The amendment, while simple, is expected to yield favorable results. It amends the Community Corrections Act to eliminate the absolute prohibition for offenders convicted of selling controlled substances from participating in a community corrections program. Prior to this amendment, only offenders convicted of distribution of controlled substances that involved transfer or giving away, were eligible to be sentenced to supervision and treatment by community corrections programs. With this change trial judges will have the opportunity to increase the use of alternatives to incarceration for nonviolent offenders and maintain meaningful judicial discretion, as well as increase the availability of drug treatment for these offenders.

The Commission's other two bills failed to pass, not because of opposition, but because other bills were given priority and time ran out before the Legislature adjourned. One of these bills, and the one given the highest priority by the Commission, was the Sentencing Standards Modification bill, which would have added the inchoate offenses of attempts, conspiracies, and solicitations to commit murder and certain controlled substances offenses and would have required the sentencing judge to sign the final standards worksheet submitted to the Commission. The bill also made amendments to the worksheets and instructions to

provide clarification on certain issues. The third bill, introduced for the third time, was the bill proposing amendment to Alabama's split sentencing statute to expressly prohibit the imposition of consecutive split sentences or "the stacking" of split sentences for separate convictions sentenced at the same sentencing event. In addition, the bill proposed amendment of the split sentencing statute to specify that the probation portion of a split sentence could not exceed 5 years for a felony or 2 years for a misdemeanor, consistent with the limitation now governing straight probation sentences. These bills, with all probability, will be included in the Commission's 2011 Legislative package.

Truth in Sentencing

In compliance with a legislative mandate, the Alabama Sentencing Commission must develop and present voluntary truth-in-sentencing standards to the Legislature before or during the 2011 Regular Session. If approved by the Legislature, these standards will become effective October 1, 2011. Although the Sentencing Commission included a blueprint of a truth-in-sentencing plan in the Sentencing Reform Act, these sentencing standards based on "time served" have not been developed. This is the Commission's major project for FY 2011, which will be accomplished with the help of our consultants, Applied Research Services. Meetings of the Sentencing Commission and Standards Committee have already been held to begin discussing the specifics of truth in sentencing, reviewing systems established in other states, what a truth in sentencing structure will look like for Alabama, and what impact can be expected from implementation. As in the past, the Sentencing Commission plans to move forward in a rational and methodical manner, weighing the pros and cons of implementation, with specific attention to the impact implementation will have on all aspects of our criminal justice system.

Cooperative Community Alternative Sentencing Project

The Commission continues work on establishing a true continuum of graduated punishment options, utilizing evidence-based practices and improving community supervision programs through the pilot project, the Cooperative Community Alternative Sentencing Project (CCASP). CCASP has already started work in four pilot jurisdictions, using a committee of local stakeholders to determine the best options for each site. Each pilot site is now testing a comprehensive risk and needs assessment system that can greatly assist in determining the risk of reoffending for each convicted offender and lower the risk of reoffending by identifying and addressing offenders' needs.

Last year CCASP was active in two jurisdictions - Lawrence and Montgomery Counties, and has now been expanded to Jefferson and Marshall Counties. With the assistance of the Chief Justice, the Vera Institute of Justice, the Crime and Justice Institute, Pew Charitable Trusts, the Alabama Board of Pardons and Paroles and local community corrections agencies, CCASP has begun implementation of uniform risk and needs assessment tools in the four pilot sites, as well as Shelby County.

The risk and needs assessment instruments are initially being used in the pilot sites to direct case planning and identify resources or services needed in the community for supervision to be successful. The instrument results, along with case plans for offenders, are now being forwarded to the Sentencing Commission for recording and form a risk/needs database for analysis. This information is critical to begin implementing essential evidence-based practices in our state's community supervision programs.

Host State of 2010 NASC Conference

The Alabama Sentencing Commission staff has been busy planning for the 2010 National Association of Sentencing Commissions' Annual Conference. The theme of this year's conference is "Sound Sentencing Policy: Balancing Justice and Dollars." The conference is shaping up to be a very successful one, with Alabama's Chief Justice Sue Bell Cobb, Judge Bill Pryor of the Eleventh Circuit Court of Appeals, and Commission Chair Judge Joe Colquitt presenting and serving as welcoming speakers. Nationally recognized speakers will present on topics ranging from the Role of Sentencing Commissions, Data Collection and Utilization, Risk Assessment Instruments, Project HOPE, Drug Courts, Impact Assessments, and Truth in Sentencing. This year's conference will be held at the beautiful Grand Hotel Marriott Resort in Point Clear, Alabama on August 8th-10th. We look forward to seeing you in Alabama to discuss emerging issues and innovative ways other states are addressing escalating prison and jail populations.

Alaska



Alaska's Criminal Justice Working Group made substantial progress during the first half of 2010 on several of its projects.

These included:

Alaska Prisoner Re-Entry Task Force

The Task Force met on April 22, 2010 to establish its work plan. The group identified ten major areas of work, and created strategic work groups to address each one.

The groups are -

- o Results-based accountability assessment team - This group will create a structure and templates for each of the other groups to follow in developing, recording, and evaluating its work.

- o Web site creation - Members will create a web site that serves as a reference point for both the members of the Task Force and the work groups, as well as providing information to the public.

- o Data gathering committee - The members will compile existing data about criminal justice populations, identify gaps in the data available, and recommend ways to provide the needed information.

- o Health and mental health - The group will create a baseline that shows current mental health services for offenders whether incarcerated or not, and will identify gaps in services.

- o Housing - Members will identify the range of existing housing services, describe the gaps, and begin to determine ways to provide affordable housing for those released from incarceration.

- o Employment, workforce development and education - The group will look at existing education and employment opportunities, post-incarceration supervision, and review ways to improve access to both.

- o Employment restrictions (also known as collateral consequences of incarceration) - Members will build on existing work to identify laws that are barriers to housing, employment, and other needs of persons with felony convictions. They will consider what changes might be possible, in the context of public safety and rehabilitation of the offender.

- o State ID for releasing prisoners - Prisoners need to have a state ID (or driver's license) to qualify for benefits, work, and many other daily needs.

- o Mentoring/faith-based assistance - The group will see how to improve these types of help for people newly released from incarceration.

- o Misdemeanor prisoner population - This group will review the special difficulties for prisoners incarcerated for misdemeanors who will have little or no support network or supervision after release.

Using results-based accountability techniques, members of the Task Force have identified their goal to be that "adults who are incarcerated and juveniles who are detained do not return to custody." The group will work to reduce the baseline recidivism rate from the 48% of adults returned to custody within the first year after their release by finding evidence-based strategies and community partners to work with. Members of the Task Force and subcommittees will be using a basic template to develop their own goals and strategies over the next few months, which will then fit into the five-year strategic plan for re-entry.

For example, safe, sober housing has been shown to be a significant factor in reducing recidivism. A recent UAA Master's graduate has developed a grid showing

available housing for low-income people that could be the basis for a web-based application available to all agencies working to house newly-released prisoners. The grid identifies length of stay possible, genders housed, access to public transportation, number of rooms, and requirements for residents. This is one of several strategies that could be part of the Housing Subcommittee's plan for meeting its goals.

PACE - Project HOPE for Alaska

Alaska's PACE - Probationer Accountability with Certain Enforcement - will tentatively start on July 12 in Judge William Morse's courtroom, with warning hearings over the course of that week for thirty-some offenders. Judge Alm, who initiated Project HOPE in Hawaii in 2005, flew to Anchorage for meetings on June 8 and 9 with Criminal Justice Working Group members, including co-chair Chief Justice Carpeneti, and the team who will manage PACE in Anchorage. He was joined by Dr. Angela Hawken from UCLA, whose randomized control evaluation of the Hawaii project showed that participation reduced recidivism substantially. The Criminal Justice Working Group and the Alaska Judicial Council underwrote their travel so that they could make a presentation to attendees at the Western Conference of Corrections Directors, as well as the CJWG. Fourth Judicial District Presiding Judge Douglas Blankenship and Fairbanks Chief Probation Officer Glenn Bacon also attended to prepare for a possible Project PACE in Fairbanks. The PACE project will be evaluated from the outset with several methods, including pre-/post-participation, comparison groups, partially randomized selection (as feasible), and in the longer run, a fully randomized experimental approach. The Anchorage probation office set criteria for the first round of probationers. Participants will have a "urinalysis required" condition of probation. Excluded from the program for the time being are probationers who are on the Enhanced Supervision, Sex Offender, or Minimum Transition Units; those who have an active petition to revoke probation; and those on parole (although

parolees may be considered later). Comparison group participants would meet the same criteria.

Electronic Exchange of Discovery Project

A committee of the Criminal Justice Working Group - including the Court System, the Department of Law, the Office of Public Advocacy, and the Judicial Council - reviewed the three responses to a Request for Proposals that was circulated in April and May 2010. Technical advisors in the Juneau and Anchorage Police Departments also helped with the review. After applying the criteria of cost, analytical approach, familiarity with the systems used by the Juneau Police Department, ability to work with other electronic records, and capacity to perform the work, the committee chose Justice Data Group, Inc. as the successful bidder.

During the next six to eight months, Justice Data Group will create and put into place a system that will let law enforcement agencies in Juneau (the pilot location) electronically share their reports and information for discovery in criminal cases with the state and municipal prosecutors there. The defense attorneys in Juneau will have electronic access, on a case-by-case basis, to the discovery information in their assigned cases. The project will reduce the time needed for attorneys to review discovery information such as police reports, reduce staff time spent copying and delivering information, and reduce questions about whether and when the discovery was actually provided. In the long run, Criminal Justice Working Group members hope to expand the pilot project throughout the state.

District of Columbia



The DC Sentencing and Criminal Code Revision Commission has just completed the first comprehensive revision of its Sentencing Guidelines Manual since the guidelines were enacted in June 2004. Although the manual is updated yearly to reflect new legislation enacted, this year's revisions made notable changes to the format, content and appendices of the manual to provide a more comprehensive resource for criminal justice practitioners and the public. The Guidelines Manual can be accessed at: http://acs.dc.gov/acs/frames.asp?doc=/acs/lib/acs2010_voluntary_sentencing_guidelines_manual.pdf. The Commission is also charged with ranking new offenses that are legislatively enacted within the District of Columbia. Ranking new offenses entails assigning each an offense severity grid level based upon proportionally, legislative intent and the designated statutory maximum sentence, with the goal of promoting public safety while ensuring that similar offenses receive similar sentences. The Commission reviewed 14 new offenses related to theft, unlawful possession of a firearm, stalking, prostitution, contraband in a penal institution and unlawful use of a motor vehicle, and then ranked 12 of the new offenses. The ranking process involves significant discussions focused on the seriousness of the offense and the impact on victims and the community, as well as recidivism reduction strategies.

In an effort to increase an understanding of sentencing under the guidelines within the District of Columbia, the Sentencing Commission is developing a series of issues papers that will examine sentencing patterns and practices for specific offenses. The issues papers will focus on offenses most frequently sentenced, as well as, offenses that have the potential to significantly impact the safety of citizens within the District. The sentences imposed for these offenses will be examined and compliance with the Sentencing Guidelines will be presented. The Commission will release its first issue

paper this summer highlighting Unauthorized Use of a Motor Vehicle.

Progress on the DC Code Revision is moving forward. The Commission has decided to first review the proportionality of felony fines. Currently, there is not consistency in the fine amount associated with various types of offenses and certain violent offenses do not even have a fine identified. By starting the code revision process with fine proportionality, the Commission anticipates a process can be developed that will enable the revision of more difficult and controversial issues, such as penalty proportionality, to proceed in a timely manner.

Finally, the budget climate within the District of Columbia mirrors most of the states in that there is a budget deficiency and agency budgets are under significant scrutiny. The Sentencing Commission did weather the budget crisis fairly well and was able to secure funding for positions associated with the criminal code revision project. This is an indication of the importance of the code revision to the District.

Maryland



The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) recently conducted a detailed analysis of guidelines compliance rates and sentencing patterns within each cell of the three guidelines matrices. In Maryland, the voluntary sentencing guidelines cover offenses divided into three categories: person, drug, and property. The guidelines determine whether an individual should be incarcerated and if so, the guidelines provide a sentence length range. For each offense category there is a separate grid or matrix, and there is a recommended sentence range in each cell of the grid. The sentence recommendation is determined in the grid by the cell that is the intersection of an offense severity ranking (offense score) and a ranking of the offender's prior criminal history (offender score).

The MSCCSP has adopted the goal of 65% as the benchmark standard for sentencing guidelines compliance, meaning that at least 65% of sentences should fall within the recommended sentencing range. If sentencing practice results in departures from the recommended range in more than 35% of cases, the MSCCSP may revise the guidelines to better reflect actual sentencing practice. Each year, the MSCCSP examines aggregate compliance, as well as compliance by circuit, crime category (matrix), and type of disposition. However, compliance within each cell of the three guidelines matrices is considered with less frequency.

A sentence is deemed compliant with the guidelines if the initial sentence (defined as the sum of incarceration, credited time, and home detention) falls within the applicable guidelines range. In addition, all sentences pursuant to an American Bar Association (ABA) plea agreement are considered compliant, as they represent an accurate reflection of the consensus of the parties and the court within the specific community they represent. Similarly, sentences to correctional options programs (e.g., inpatient substance abuse treatment, home detention) are deemed compliant provided that the initial sentence plus any suspended sentence falls within or above the applicable guidelines range and the case does not include a crime of violence, sexual child abuse, or escape. This reflects the MSCCSP's interest in promoting the use of alternatives to incarceration for appropriate offenders.

This past year, the MSCCSP proceeded with an analysis of compliance by cell in several steps. First, the percent of sentences below, within, and above the guidelines in each cell of the three matrices was calculated. Compliance figures were based

on data collected for fiscal years 2004-2008. Next, cells with at least 50 cases and a compliance rate less than 65% were identified. For each cell, the actual sentence range for the middle 65% of sentences in the cell was calculated for comparison against the guidelines recommended range of the cell. The MSCCSP then examined a number of characteristics that may impact the average sentence within an individual cell, such as the most common offense conviction in that grouping. Next, a cross-tabulation of disposition type by jurisdiction was estimated for each of the three matrices. As noted above, cases resolved by an ABA plea are defined as compliant, regardless of whether the length of a sentence falls within or outside of the guidelines range. Therefore, jurisdictions that use a large number of ABA pleas are likely to have a higher compliance rate than those that do not. The final step was to examine the average sentence (including percent incarcerated and average sentence length) by cell for (1) all cases, (2) ABA plea cases, and (3) all other cases. The MSCCSP was particularly interested in whether ABA plea sentences differed significantly from non-ABA plea sentences.

The above analyses showed that compliance was at or above 65% in the majority of cells. Only 10% of cells had a compliance rate less than 65% and at least 50 cases. In most instances, the cells falling below 65% compliance were off by only a few percentage points. Furthermore, the data revealed little difference in average sentences among ABA plea sentences and all other sentences. Based on these findings, the general consensus of the MSCCSP was that compliance rates were sufficiently high, and adjustments to the cells were not warranted. The detailed cell-by-cell examination proved to be a useful exercise in that it revealed sentencing patterns that may not be apparent in the routine aggregate analyses.

Massachusetts



Legislation

The Massachusetts Senate passed Senate Bill 2220 on November 18, 2009. This bill contained a provision that would allow for parole eligibility for certain mandatory drug offenders at two-thirds of the minimum state prison sentences and one-half of the maximum house of correction sentences. The Massachusetts House passed House 4703 on May 27, 2010. This bill did not contain provisions for mandatory drug offenders but did contain a proposal to create a system of mandatory post-release supervision. Both bills contain language reforming public access to criminal history information. These bills have been referred to a conference committee. The language of the bills can be accessed at: <http://www.mass.gov/legis>.

Evidence Based Practices

The interest in applying the principles of evidence based practices to sentencing offenders continues to grow. A working group with participation by the Chief Justices of the Superior Court Department, the District Court Department, the Boston Municipal Court Department, and the Juvenile Court Department met with Judge Roger Warren to learn more about the principles and research behind these concepts. Judge Warren also made a presentation at the spring Superior Court judges conference.

The Massachusetts Sentencing Commission will be working on a pilot project in the Essex County Superior Court to further explore the implementation of these concepts. While the Superior Court Department handles the most serious offenders in the Commonwealth there appears to be many opportunities for the application of evidence based practices in sentencing these offenders. Of particular focus in developing this project will be:

- Identifying offenders in the "discretionary zone" of the sentencing guidelines grid (estimated to be 50% of superior court defendants and the incarceration rate is 72% for superior court defendants in the discretionary zone);

- Identifying offenders who might be sentenced to the local correctional system (currently 33% of all superior court defendants sentenced to incarceration); and,

- Identifying offenders who are subject to probation violations (there were an estimated 3,209 probation violation hearings in the Superior Court Department).

Disproportionate Minority Contact

In order to assist Massachusetts in meeting the reporting requirements established by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Sentencing Commission continues to participate in a collaborative research project with the Office of the Commissioner of Probation and the Juvenile Court Department. This project reports on the number and race / ethnicity of juveniles at various contact points in the criminal justice system. The Sentencing Commission completed an analysis of those juveniles whose cases were disposed, those juveniles who were adjudicated delinquent or youthful offender, and those juveniles who were committed to a juvenile or adult facility. An analysis of those juveniles whose cases are heard in adult court is currently underway. In Massachusetts all cases involving a juvenile aged 14 to 16 who are charged with murder are automatically heard in adult court.

Foreign Delegations

The Massachusetts Sentencing Commission participated in hosting two foreign delegations recently - the first from Northwestern University in China and the second from Russia. The Chinese delegation was interested in the sentencing guidelines developed by the Massachusetts Sentencing Commission, community corrections, the juvenile court and correctional system, and the Access and Fairness survey. The Russian delegation was primarily interested in implementing the Access and Fairness survey in that country.

Survey of Sentencing Practices

The most recent annual survey of sentencing practices and the Felony and Misdemeanor Master Crime List are available on our website: <http://www.mass.gov/courts/sentcomm.html>.

Minnesota



New sentencing practices data report: Impact of Blakely and Expanded Ranges on the Sentencing Grid

In March of 2010, the Commission published a new report titled *Impact of Blakely and Expanded Ranges on the Sentencing Grid*. After the *Blakely* case occurred, the Commission at that time decided to increase the ranges on the grid to allow judges a larger sentencing range to work with. The change caused the grid ranges to be 20% higher than the presumptive middle and 15% lower than the presumptive middle. One trend that the report describes is that since the *Blakely* case, the percentage of offenders who are sentenced at the lower end of the box has increased while the percentage of offenders who are sentenced at the upper end of the box has remained stable. The report also explains that because *Blakely* made it more difficult to issue an aggravated sentence, the data shows that the percentage of offenders who received an aggravated durational departure above the box range has decreased. Another conclusion is that because of the larger range on the lower end of the box, the percentage of downward durational departures outside of the box has decreased as well. When the Commission chose to increase the ranges on the grid, there was concern that there would be an increase in the percentage of offenders sentenced at the upper end of the box but the data shows that this did not occur. The report can be accessed by using the following link: <http://www.msgc.state.mn.us/data>
http://www.msgc.state.mn.us/data_reports/Blakely_ExpandedRanges.pdf

Dispositions and Sentencing Education Program

Commission staff as well as staff from the Department of Corrections and Bureau of Criminal Apprehension participated in the development and presentation of a disposition and sentencing education program.

Sponsored by the State Court Administrator's office, the program was offered to judges and court staff in six locations throughout the state. Topics included: disposition, entry of conviction, and sentencing for the record; level of sentence; jail credit, Bureau of Criminal Apprehension notifications; sentencing multiple counts; sentencing departures and updating records.

Modifications to the Sentencing Guidelines

- Effective August 1, 2010

In order to simplify the guidelines from a practitioner's point of view and to allow for less confusion about certain policies, the Commission adopted three proposals making modifications to the misdemeanor and gross misdemeanor point calculation which are effective August 1, 2010. One of the most common concerns has been the inconsistency of the misdemeanor and gross misdemeanor list of offenses that count toward criminal history points. Not only does the list often get modified due to newly enacted laws, but its changing over time creates problems for practitioners in determining criminal history points from the past. The Commission decided that a simpler policy would be to count all non-traffic gross misdemeanors as well as misdemeanors that are on the Targeted Misdemeanor List for which identification data is required as provided in Minnesota Statutes. This policy is consistent with legislative intent regarding which non-felony level crimes are serious in nature, it targets person offenses, and is proportional as well. The second modification changes the policy for a gross misdemeanor custody status with a policy that applies custody point for all non-traffic gross misdemeanors and misdemeanors which are on the Targeted Misdemeanor List. The policy change is consistent with the above described modification for the calculation of criminal history points. The third modification changes the start-date and end-date used to calculate the misdemeanor and gross misdemeanor decay to make it uniform with the dates for felony decay.

North Carolina



North Carolina has been selected to participate in the Justice Reinvestment Project, an initiative of the Council of State Governments Justice Center (CSGJC) and the Pew Center on the States to reduce corrections spending and enhance public safety by improving the conditions in a state's crime-producing communities. Leaders from all branches of North Carolina government, including the Governor, the Chief Justice, party leadership of both legislative chambers, and the Chairman of the Sentencing and Policy Advisory Commission, joined in seeking the assistance of the CSGJC. As the first of three phases of the project, CSGJC staff is completing a comprehensive study of North Carolina's prison, community corrections, crime and recidivism data, both statewide and by locality. The Sentencing Commission has offered technical support in the collection and analysis of data from various sources, and has made available more than a decade's worth of its own research findings. The Commission and its staff will continue to support the CSGJC as it moves from gathering and analyzing data to the development, implementation, and evaluation of specific reforms.

North Carolina is unique among states in treating all of its 16- and 17-year-old offenders as adult criminals. At the behest of the General Assembly, the Sentencing and Policy Advisory Commission issued a study report on youthful offenders in 2007, and recommended raising the age of juvenile court jurisdiction from 16 to 18. In 2009, the legislature created the Youth Accountability Planning Task Force, with a mandate to identify the systemic changes and costs required to incorporate 16- and 17-year-old offenders into the juvenile justice system. The Task Force was also directed to develop an implementation plan to be used in the event that North Carolina undertakes the proposed age change. The Task Force includes a representative of the Sentencing Commission; and members of the Commission's staff serve on each of three Working Groups. The Task Force

will issue an interim report during the 2010 legislative session, and will submit a final report of findings and recommendations to the Governor and the General Assembly in January, 2011.

The Sentencing Commission recently published its sixth biennial report on adult recidivism. Based on a sample of 60,824 offenders who were either released from prison or placed on probation during FY 2005/06, the report measures subsequent arrests, convictions, and incarcerations during a three-year follow-up period. The report provides overall recidivism rates for the sample, in addition to comparative data on probationers who were sentenced to community punishments and intermediate punishments under Structured Sentencing, prisoners released with and without community supervision, and prisoners with identified mental health problems. Recidivism rates are also analyzed by offender risk level. Overall, the findings reflect the consistency of recidivism rates in North Carolina over the past twelve years, as well as the continuing efficacy of the Commission's offender risk score as a predictor of recidivism.

Ohio



With his death on April 2, the Sentencing Commission lost its longstanding Chairman, Chief Justice Tom Moyer of the Ohio Supreme Court. The longest serving Commission member, Chief Justice Moyer chaired the Commission since its inception in 1991. Since the Chief Justice chairs the Commission by statute, Moyer was replaced by new Chief Justice Eric Brown, who will run for election as Chief Justice this fall.

For the first session in two decades, the current session of the Ohio General Assembly (2009-10) has been relatively quiet on the criminal justice front. No major bills have been enacted. Even du jour areas such as impaired driving and sexual offenders haven't seen legislative activity. Like Congress, where one party controls the House and the other party has a 41-59 "majority" in the Senate, Ohio's two houses are have a partisan split (albeit with more conventional arithmetic). This has delayed both meaningful and meaningless legislation.

Along with several other groups in Ohio, the Commission has been working the a Council of State Governments team that is looking into Ohio's prison crowding issues, particularly in light of a remarkably tight budget. The Sentencing Commission's felony package, enacted largely intact in 1996, kept the prison population fairly static for 12 years. But our Supreme Court's reaction to the Appendi/Blakely/Booker line of U.S. Supreme Court cases removed some of the controls. For instance, there is no longer an appeal of right when a defendant receives the maximum term, receives more than the minimum on first commitment to prison, or for consecutive sentences. The changes are subtle for many individuals (say an extra month or year), but cumulatively dynamic, with 20,000+ new admissions to prison annually. A key question for the Commission and other policymakers is whether the state is willing to re-embrace structured sentencing. Film at '11.

Pennsylvania



In February 2010, the Pennsylvania Commission on Sentencing submitted two Legislative Reports as part of its mandated responsibilities. The first report presented findings from an evaluation of the State Intermediate Punishment Program, and the second report presented information on Pennsylvania's newest program, Recidivism Risk Reduction Incentive. By statute, the Commission must submit biennial reports on these two programs.

State Intermediate Punishment Program: 2010 Legislative Report

In 2004, Pennsylvania's General Assembly passed legislation creating the State Intermediate Punishment [SIP] Program, which is a two-year, step-down, substance abuse program for offenders sentenced to state prison [Act 112 of 2004]. The impetus behind the creation of the SIP Program was the General Assembly's concern about the link between substance abuse and crime, and the finding that many persons commit crimes while under the influence of drugs and/or alcohol. The SIP Program was viewed as a way to both enhance public safety and reduce recidivism by punishing offenders for the harm they have brought to their victims, while at the same time offering treatment as a mechanism for offenders to address their substance abuse issues. Since the inception of the program in May 2005 through April 2009, 1,494 have been admitted into the program.



Eligibility for SIP.

The Commission was mandated to identify offenders who would be appropriate for SIP consideration. As a result, the Commission adopted sentencing guideline recommendations that targeted drug dependent offenders who otherwise would be serving a minimum sentence of confinement in a state prison for 30 months or more. In a previous report released by the Commission on Sentencing on mandatory sentences, the Commission made several recommendations relevant to the SIP Program. Concerns had been raised about the underutilization of SIP, the restrictions of the ineligibility criteria, and the ability of the prosecutor to restrict sentences to SIP. As a result, the Commission recommended several changes to the Legislature including: 1) reviewing the list of ineligible offenses and allowing some of the less serious offenses to be eligible for this program, 2) providing the sentencing court with greater discretion in ordering participation in SIP, and 3) restricting eligibility of those sentenced under the mandatory drug statute to the first tier [e.g., 2 to less than 10 grams cocaine].

Impact of Program Completion on Recidivism.

The focus of this year's report was a study evaluating the impact of program completion on recidivism. For the recidivism analysis we compared offenders who completed SIP with offenders released from prison between July 2007 and August 2008 to allow for a minimum of a one year tracking period. Because offenders are not randomly selected into the SIP program, we used propensity score matching in order to determine which offenders would comprise the comparison group so that it would be as comparable as possible to the SIP group.

We found that offenders were more likely to complete SIP if they were older, had fewer prior arrests, were assessed to be at low risk for recidivism [i.e., lower LSIR Score], and had a greater substance abuse problem [i.e., higher TCU Score]. The recidivism rates for the offenders who successfully completed SIP were significantly lower than those of a comparable group of offenders released from prison after both six months and one year. After one year, the re-arrest rate for the SIP completers was 11.9% compared to 20.4% for those released from prison. Additional predictors of recidivism included: prior arrests, current conviction for offense other than drug delivery or DUI, age, and race.

It should be noted that since SIP offenders are not released to parole, they cannot be returned to prison for a technical violation. It is important to note that about one-third of the SIP offenders were expelled from the program and returned for re-sentencing. Those offenders were not included in the analysis as the current analysis only examined the impact of program completion. The findings, however, do provide strong support for the success of the SIP Program in lowering recidivism for offenders who successfully complete the program. We will continue to monitor the success of SIP program completion and, in future reports, examine whether these findings hold when the tracking period is expanded from one to two years or more.

Recidivism Risk Reduction Incentive Program: 2010 Legislative Report

The Recidivism Risk Reduction Incentive [RRRI], which became effective in November 2008, was enacted to "to create a program that ensures appropriate punishment for persons who commit crimes, encourages prisoner participation in evidence-based programs that reduce the risks of future crime and ensures the openness and accountability of the criminal justice process while ensuring fairness to crime victims." For those offenders deemed eligible for RRRI, the court imposes two sentences: 1) the 'regular' minimum and maximum sentence and 2) the RRRI minimum sentence. The RRRI minimum sentence is based upon a percentage of the 'regular' minimum sentence: for minimum sentences three years or less, the RRRI sentence is three fourths of the minimum sentence; for minimum sentences over three years the RRRI is five-sixths of the minimum sentence. [The Sentencing Guidelines software, SGS WEB, was revised to automatically calculate the RRRI sentence for eligible offenders.] Those offenders who successfully complete the program serve the reduced minimum sentence.

After a RRRI offender has been sentenced to the Department of Corrections [DOC], the DOC utilizes validated assessment tools to determine the needs and risks of the offender. Based upon these assessment tools, a program plan is developed for the offender that is designed to lower the risk of recidivism. Upon successful completion of the program, demonstrated good conduct in prison, and establishment of an adequate reentry program, the offender is released to parole.

This year was the Commission's first Legislative Report on the Recidivism Risk Reduction Incentive [RRRI] Program. As the program was in its first year of operation during 2009, new procedures and policies were still being developed and implemented. Thus, only limited information on the sentencing and release of RRRI offenders was available, based upon data received from the Department of Corrections and the Pennsylvania Board of Probation and Parole. Based upon the limited information that was available, it appears that only a small number [2 out of 138 RRRI certified offenders] were released at the expiration of their RRRI minimum sentence. One issue that arose was the number of offenders who were sentenced to the Department of Corrections with relatively short minimum sentences, which could preclude them from completing their RRRI program before their release eligibility date. The Pennsylvania Commission on Sentencing, the Department of Corrections, and the Board of Probation and Parole are working together to improve the linking of their data management systems and to address the issue of the minimum amount of time necessary for offenders to complete RRRI programming. More complete information will assist the Commission in being able to determine whether the RRRI program is meeting its goals, and whether there will be any recommendations for change in future reports.

For a copy of the full reports, see the Commission's website at <http://pcs.la.psu.edu/>

NASC Contact List

Alabama

Sentencing Commission

Lynda Flynt, Director
300 Dexter Ave Suite 2-230
Montgomery, AL 36104-3741
Telephone: 334.954.5096
lynda.flynt@alacourt.gov
<http://sentencingcommission.alacourt.gov>

Alaska Judicial Council

Teri Carns, Senior Staff Associate
1029 W. Third Avenue, Suite 201
Anchorage, AK 99501
Telephone: 907.279.2526
teri@ajc.state.ak.us
<http://www.ajc.state.ak.us>

Arkansas

Sentencing Commission

Sandy Moll, Executive Director
101 East Capitol, Suite 470
Little Rock, AR 72201
Telephone: 501.682.5001
sandy.moll@mail.state.ar.us
<http://www.state.ar.us/asc>

Delaware Sentencing Accountability Commission

Jennifer Powell, Director
820 N. French St., 10th Floor
Wilmington, DE 19801
Telephone: 302.577.8698
jennifer.powell@state.de.us
<http://www.state.de.us/cjc/sentac.html>

Kansas Sentencing Commission

Helen Pedigo, Executive Director
Jayhawk Tower, 700 S. W. Jackson, Suite 501
Topeka, KS 66603
Telephone: 785.296.0923
helenp@sentencing.ks.gov
<http://www.accesskansas.org>

Louisiana

Sentencing Commission

Carle Jackson, Director
1885 Wooddale Blvd, Room 708
Baton Rouge, LA 70806
Telephone: 225.925.4440
<http://www.lcle.state.la.us>

Maryland State

Commission on Criminal Sentencing Policy

David Soulé, Executive Director
4511 Knox Road, Suite 309
College Park, MD 20742-8235
Telephone: 301.403.4165
dsoule@crim.umd.edu
<http://www.msccsp.org>

Massachusetts

Sentencing Commission

Francis J. Carney, Jr., Executive Director
Three Center Plaza, 7th Floor
Boston, MA 02108
Telephone: 617.788.6867
Francis.Carney@jud.state.ma.us
<http://www.mass.gov/admin/sentcomm.html>

Minnesota Sentencing Guidelines Commission

Suzanne Alliegro, Executive Director
Capitol Office Bldg, Suite 220, 525 Park Street
St. Paul, MN 55103
Telephone: 651.296.0144
Suzanne.Alliegro@state.mn.us
<http://www.msqc.state.mn.us>

Missouri Sentencing Advisory Commission

Julie Upschulte, Director
P.O. Box 104480
Jefferson City, MO 65110
Telephone: 573.522.5419
julie.upschulte@courts.mo.gov

New Jersey Commission to Review Criminal Sentencing

P.O. Box 095
Trenton, NJ 08625
Telephone: 609.341.2813
<http://www.sentencing.nj.gov>

New Mexico

Sentencing Commission

Tony Ortiz, Director
2808 Central Ave. SE
Albuquerque, NM 87106
Telephone: 502.277.3494
ttonmsc@unm.edu
<http://nmsc.unm.edu/>

North Carolina Sentencing and Policy Advisory Commission

Susan Katzenelson, Executive Director
P.O. Box 2472
Raleigh, NC 27602
Telephone: 919.789-3684
susan.c.katzenelson@nccourts.org
http://www.nccourts.org

Ohio Criminal Sentencing Commission

David Diroll, Executive Director
Ohio Judicial Center
65 South Front Street, 2nd Floor
Columbus, OH 43215
Telephone: 614.387.9305
DirollD@sconet.state.oh.us

Oregon Criminal Justice Commission

Craig Prins, Executive Director
Oregon Criminal Justice Commission
885 Summer Street NE
Salem, Oregon 97301
Telephone: 503.378.4858
craig.prins@state.or.us

Pennsylvania Commission on Sentencing

Mark H. Bergstrom, Executive Director
P. O. Box 1200
State College, PA 16804-1200
Telephone: 814.863.2797
mhb105@psu.edu
http://pcs.la.psu.edu

Utah Sentencing Commission

Jacey Skinner, Director
Utah State Capitol Complex
E. Office Bld, STE E330 P.O. Box 142330
Salt Lake City, UT 84114-2330
Telephone: 801.538.1031
jskinner@utah.gov
http://www.sentencing.utah.gov

Virginia Criminal Sentencing Commission

Rick Kern, Director
100 N. 9th St., 5th Floor
Richmond, VA 23219
Telephone: 804.225.4398
rick.kern@vcsc.virginia.gov
http://www.vcsc.virginia.gov

Washington Sentencing Guidelines Commission

Jean Soliz Conklin, Executive Director
4565 7th Avenue SE, P.O. Box 40927
Olympia, WA 98504-0927
Telephone: 360.407.1050
jeans@sgc.wa.gov
http://www.sgc.wa.gov

Vermont Sentencing Commission

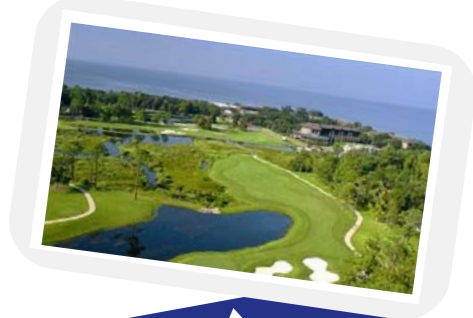
Michael R. Kainen, Executive Director
82 Railroad Row
White River Jct., VT 05001
Telephone (802) 281-5261
Michael.Kainen@state.vt.us

DC Sentencing and Criminal Code Revision Commission

Barbara Tombs, Executive Director
441 Fourth Street, N.W., Suite 830 S.
Washington D.C. 20001
Telephone: 202.727.8822
Barbara.tombs@dc.gov
http://www.scdc.dc.gov

United States Sentencing Commission

Judith W. Sheon, Staff Director
One Columbus Circle, NE Suite 2-500
Washington, D.C. 20002
Telephone: 202.502.4510
http://www.uscc.gov



National Association of Sentencing Commissions

Get to the Point!
Point Clear, Alabama

2010 Annual NASC Conference

August 8-10, 2010
Grand Hotel Marriott Resort, Golf Club & Spa
Point Clear, Alabama



Contact Information

Alabama Sentencing Commission

300 Dexter Ave Suite 2-230
Montgomery, AL 36104-3741
Telephone: 334.954.5096

web: <http://sentencingcommission.alacourt.gov>

NASC 2010 Conference
c/o Lynda Flynt, Director
Alabama Sentencing Commission
300 Dexter Ave Suite 2-230
Montgomery, AL 36104-3741