final minutes

Criminal Justice Policy Commission Meeting
9:00 a.m. • Wednesday, April 4, 2018
Harry T. Gast Appropriations Room • 3rd Floor State Capitol Building
100 N. Capitol Avenue • Lansing, MI

Members Present:
Senator Bruce Caswell, Chair
Representative Vanessa Guerra
D.J. Hilson
Sheryl Kubiak (via teleconference)
Barbara Levine
Sarah Lightner
Sheriff Lawrence Stelma
Jennifer Strange
Judge Paul Stutesman
Andrew Verheek

Members Excused:
Senator Patrick Colbeck
Kyle Kaminski
Laura Moody
Representative Jim Runestad
Judge Raymond Voet

I.   Call to Order and Roll Call
The Chair called the meeting to order at 9:00 a.m. and asked the clerk to take the roll. A quorum was present, and absent members were excused.

II.   Approval of March 7, 2018 CJPC Meeting Minutes
The Chair asked members if there were any corrections to the proposed March 7, 2018 CJPC meeting minutes. There were none. **Commissioner Hilson moved, supported by Commissioner Lightner, to approve the minutes of the March 7, 2018 meeting as proposed. There was no further discussion. The minutes were approved by unanimous consent.**

III.   Chair Comments on Commission's Timeline and Goals for 2018
The Chair noted that, with the conclusion of the study of 17-year-olds, the Commission will return to the analysis of sentencing guidelines as specified in statute. He would like the Commission to issue a report with recommendations concerning sentencing guidelines by the end of the year. He added that Senator Proos has introduced a bill to extend the Commission's sunset date; however, he would still like a draft report to be ready by the October or November CJPC meeting with a vote on the final report to be taken at the December meeting.

IV.   Data Subcommittee Update
The Chair then called on CJPC Data Administrator Grady Bridges for an update on the areas the Commission will be focusing on in preparation of the Commission's report. Mr. Bridges proceeded with an overview of the sentencing guidelines and straddle cell sentencing he will be analyzing to answer three research questions identified by the Data Subcommittee. (See attached handout for more details.) A discussion of the scope of his analysis including consideration of extenuating circumstances when looking at disparity rates and analyzing other cells beyond D-grid straddle cells followed. The lack of jail data and potential gaps in the data used to calculate recidivism rates were also considered and the exclusion of certain 4th habitual offenders was discussed. In response to a question from Commissioner Levine, Mr. Bridges will share the percentage of 4th habitual offenders who are excluded in his calculations. In addition, he will also share the statutes that define what offenses are included in Group 1 and Group 2. The Chair asked that explanations of what is included in Group 1 and Group 2 offenses be included in the Commission's report. The possibility of including race as a variable and identifying the offender characteristics that are taken into consideration were also discussed. Commissioner Kubiak commented that Grady has already compiled most of the data for Research Question #1 and he should have the data research completed by the next meeting. The Chair noted it would be fair, in terms of a timeline, to allow two months for each research question. Commissioner Kubiak thought it might also be helpful to identify other research questions the Commission should analyze should the Commission's sunset date be extended. Judge Stutesman offered that having a list of offender characteristics might be helpful in determining other areas the Commission might want to consider analyzing. Mr. Bridges will put together a list of variables and data sets that are available and he will send that list to Commission members by the next meeting. Commissioner Strange inquired about the availability of mental health

data and Mr. Bridges noted that it is available, but it is self-reported. Potential issue with other variables were also discussed.

V. Mental Health Subcommittee Update
Commissioner Lightner had no update to report. The Chair asked the subcommittee to follow-up with the Legislature on the CJPC mental health recommendation approved at the last CJPC meeting.

VI. Commissioner Comments
Representative Guerra suggested that, from a legislative perspective, it is helpful to keep things simple and clear when preparing the sentencing guidelines report.

Chair Caswell shared he has received feedback that the Commission's work on the study of 17-year-olds is very much appreciated by the Legislature. He is proud of the work that went into the report and expressed his thanks to everyone involved in the project.

VII. Public Comments
The Chair asked if there were any public comments. There were none.

VIII. Next CJPC Meeting Date
The next CJPC meeting is scheduled for **Wednesday, May 2, 2018, at 9:00 a.m. in the Harry T. Gast Appropriations Room, 3rd Floor of the State Capitol Building.**

IX. Adjournment
There was no further business. The Chair adjourned the meeting at 11:02 a.m.

(Minutes approved at the May 2, 2018 Criminal Justice Policy Commission meeting.)

CJPC Pilot Study Overview
Sentencing Guidelines and Straddle Cell Sentencing

1. Study Goals:

Using data made available by the Michigan Department of Corrections our analysis seeks to provide answers to the following questions:

Research Question 1: To what extent are prison sentences, relative to intermediate sanctions, imposed on those who score in straddle cells on the D -Grid?

Research Question 2: For offenders with similar offense and offender characteristics, are there disparities in the rate of prison sentences? If so, what factors or characteristics are contributing to such disparities?

Research Question 3: Does the recidivism rate for those receiving a prison sentences differ significantly from those receiving intermediate sanctions?

2. Data Collection

The MDOC provided the commission with two datasets containing felony sentencing information from Jan. 1st, 2012 through Dec. 31st, 2016:

a. BIR DEM contains demographic data associated with the sentencing event. There will be one record for each sentencing event (combinations of offender, sentence date, and sentencing county).
b. BIR OFF the offense portion associated with the sentencing event. There could be multiple offense records for each sentencing event each potentially with their own sentencing guidelines and sentences.

3. Scope of Analysis

As discussed by the commission, the analysis in this study will focus on individuals sentenced between Jan. 1st, 2012 and Dec. 31st, 2016 and score within a straddle cell for Class D felony offenses. Furthermore, habitual offenders and those with probation violations will be excluded while considering the initial sentencing decision.

Sentencing Grid for Class D Offenses --- MCL 777.65
Includes Ranges Calculated for Habitual Offenders (MCL 777.21 (3)(a)-(c))

PRV Level

OV Level	Offender Status	A 0 Points	B 1-9 Points	C 10-24 Points	D 25-49 Points	E 50-74 Points	F 75+ Points
I (0-9 Points)		0 / 6*	0 / 9*	0 / 11*	0 / 17*	5 / 23	10 / 23
	HO2	0 / 7*	0 / 11*	0 / 13*	0 / 21	5 / 28	10 / 28
	HO3	0 / 9*	0 / 13*	0 / 16*	0 / 25	5 / 34	10 / 34
	HO4†	0 / 12*	0 / 18*	0 / 22	0 / 34	5 / 46	10 / 46
II (10-24 Points)		0 / 9*	0 / 11*	0 / 17*	5 / 23	10 / 23	19 / 38
	HO2	0 / 11*	0 / 13*	0 / 21	5 / 28	10 / 28	19 / 47
	HO3	0 / 13*	0 / 16*	0 / 25	5 / 34	10 / 34	19 / 57
	HO4†	0 / 18*	0 / 22	0 / 34	5 / 46	10 / 46	19 / 76
III (25-38 Points)		0 / 11*	0 / 17*	5 / 23	10 / 23	19 / 38	29 / 57
	HO2	0 / 13*	0 / 21	5 / 28	10 / 28	19 / 47	29 / 71
	HO3	0 / 16*	0 / 25	5 / 34	10 / 34	19 / 57	29 / 85
	HO4†	0 / 22	0 / 34	5 / 46	10 / 46	19 / 76	29 / 114
IV (35-49 Points)		0 / 17*	5 / 23	10 / 23	19 / 38	29 / 57	34 / 67
	HO2	0 / 21	5 / 28	10 / 28	19 / 47	29 / 71	34 / 83
	HO3	0 / 25	5 / 34	10 / 34	19 / 57	29 / 85	34 / 100
	HO4†	0 / 34	5 / 46	10 / 46	19 / 76	29 / 114	34 / 134
V (50-74 Points)		5 / 23	10 / 23	19 / 38	29 / 57	34 / 67	38 / 76
	HO2	5 / 28	10 / 28	19 / 47	29 / 71	34 / 83	38 / 95
	HO3	5 / 34	10 / 34	19 / 57	29 / 85	34 / 100	38 / 114
	HO4†	5 / 46	10 / 46	19 / 76	29 / 114	34 / 134	38 / 152
VI (75+ Points)		10 / 23	19 / 23	29 / 57	34 / 67	38 / 76	43 / 76
	HO2	10 / 28	19 / 47	29 / 71	34 / 83	38 / 95	43 / 95
	HO3	10 / 34	19 / 57	29 / 85	34 / 100	38 / 114	43 / 114
	HO4†	10 / 46	19 / 76	29 / 114	34 / 134	38 / 152	43 / 152

† Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.
The statutory percentage increases for habitual offenders are rounded down to the nearest whole month. The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

The offense crime class roughly corresponds to the maximum term of imprisonment for all offenses in that class. For Class D offenses the maximum term of imprisonment is 10 years.

4. **Data Overview**

Table 1: Crime Groups

Sentencing Guidelines Crime Groups	Freq.	Percent
Crimes against a person ("Person")	1,432	24.56
Crimes against property ("Property")	1,282	21.99
Crimes involving a controlled substance ("CS")	2,425	41.60
Crimes against public order ("Pub ord")	194	3.33
Crimes against public safety ("Pub saf")	96	1.65
Crimes against public trust ("Pub Trst")	401	6.88

Table 2: Offenses by Offense Group*

Offense	Freq.	Percent
Group 1 Offenses	**2,299**	
Arson	81	3.52%
Assault	766	33.32%
Assaultive Other	103	4.48%
Burglary	1,088	47.32%
CSC	213	9.26%
Other Sex Offenses	48	2.09%
Group 2 Offenses	**3,531**	
Drugs	2,852	80.77%
Forgery/Embezzle	31	0.88%
Fraud	17	0.48%
Larceny	370	10.48%
Malicious Destruction	18	0.51%
Other Non-Assaultive	243	6.88%

*Note: As stated in the *Michigan Department of Corrections, Reentry Administration - Office of Community Corrections Biannual/Annual Report (October 2017* : Group 1 includes offenses that are typically assaultive in nature and are more likely to receive prison sentences or longer terms of local incarceration due to the seriousness of the offense and the risk to public safety. Group 2 includes offenses that are typically non-assaultive in nature. These offenses may not be assessed as a risk to public safety depending on circumstances, and therefore may be appropriate for consideration of community based supervision.

Table 3: Number of Offenders and Prison Sentences
by Offense Variable Level and Prior Record Level

Sentencing Grid for Class D Offenses --- MCL 777.65

OV Level	PRV Level					
	A 0 Points	**B** 1-9 Points	**C** 10-24 Points	**D** 25-49 Points	**E** 50-74 Points	**F** 75+ Points
I 0-9 Points	-	-	-	-	**1,127** Prison: 322 28.57%	**1,142** Prison: 514 45.01%
II 10-24 Points	-	-	-	**1,219** Prison: 310 25.43%	**615** Prison: 264 42.93%	-
III 25-38 Points	-	-	**421** Prison: 104 24.70%	**291** Prison: 120 41.24%	-	-
IV 35-49 Points	-	**144** Prison: 37 25.69%	**402** Prison: 146 36.32%	-	-	-
V 50-74 Points	**240** Prison: 62 25.83%	**108** Prison: 37 34.26%	-	-	-	-
VI 75+ Points	**121** Prison: 61 50.41%	-	-	-	-	-

Table 4: Number of Offenders and Plea Deals
by Offense Variable Level and Prior Record Level

Sentencing Grid for Class D Offenses --- MCL 777.65

OV Level	PRV Level					
	A 0 Points	**B** 1-9 Points	**C** 10-24 Points	**D** 25-49 Points	**E** 50-74 Points	**F** 75+ Points
I 0-9 Points	-	-	-	-	**1,127** Plea Deal: 1046 92.81%	**1,142** Plea Deal: 1070 93.70%
II 10-24 Points	-	-	-	**1,219** Plea Deal: 1108 90.89%	**615** Plea Deal: 548 89.11%	-
III 25-38 Points	-	-	**421** Plea Deal: 340 80.76%	**291** Plea Deal: 249 85.57%	-	-
IV 35-49 Points	-	**144** Plea Deal: 102 70.83%	**402** Plea Deal: 296 73.63%	-	-	-
V 50-74 Points	**240** Plea Deal: 174 72.50%	**108** Plea Deal: 67 62.04%	-	-	-	-
VI 75+ Points	**121** Plea Deal: 79 65.29%	-	-	-	-	-

Table 3: Sentencing Decisions by Type

Sentence Type	Freq.	Percent
Prison	1,977	33.91
Jail	684	11.73
Jail/Probation	2,338	40.10
Probation	799	13.70
Other*	32	0.55

*Note: Other Sentences in this sample include: Community Service Only [1], FIA (DSS) [11], and Fines/Costs/Restitution Only [20].

Table 4: Sentencing by County – Top 5

County	Freq.	Percent	Cumulative
Wayne	1,347	23.10	23.10
Macomb	543	9.31	32.42
Kent	399	6.84	39.26
Genesee	279	4.79	44.05
Kalamazoo	228	3.91	47.96

Table 5: Summary Statistics

Variable	Obs.	Mean	Std. Dev.	Minimum	Maximum
Age	5,830	33.76	11.47	13	85
Age at 1st Arrest Sentencing	5,829	19.37	7.99	7	85
Probation (Days)	3,137	963.24	401.07	67	2192
Jail (Days)	3,022	231.60	123.75	1	365
Prison (Years)	1,977	1.64	0.79	0	12

Table 6: Offender Gender

Gender	Freq.	Percent
Female	580	9.95
Male	5,250	90.05

Figure 1: Scores for Prior Record Variable 1
- Prior *High* Severity Felony Convictions -
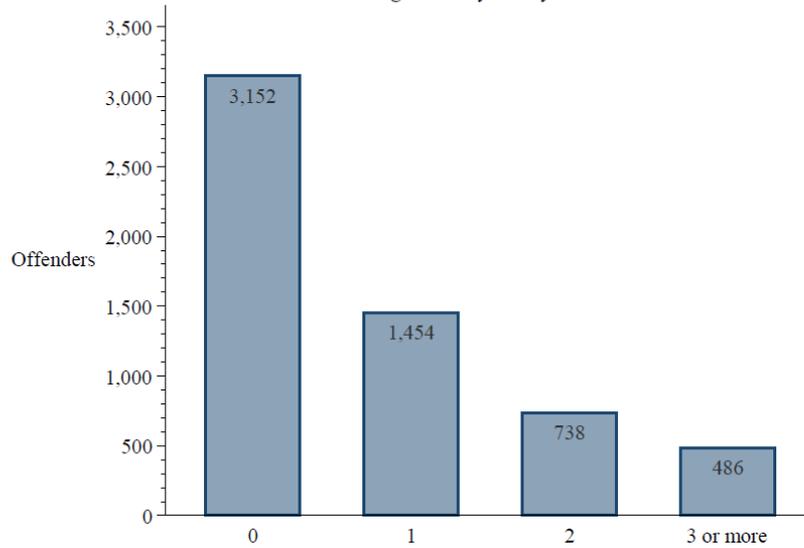
Prior high severity felony conviction: A prior high severity felony conviction is:
(1) a conviction for a crime listed in class M2, A, B, C, or D or for a felony under federal law or the law of another state that corresponds to a crime listed in class M2, A, B, C, or D if the conviction was entered before the sentencing offense was committed; (2) a conviction (entered before the sentencing offense was committed) for a felony punishable by a maximum term of imprisonment of 10 years or more that is not listed in class M2, A, B, C, D, E, F, G, or H; or (3) a conviction (entered before the sentencing offense was committed) under federal law or the law of another state for a felony punishable by a maximum term of imprisonment of 10 years or more that does not correspond to a crime listed in class M2, A, B, C, D, E, F, G, or H. MCL 777.51(2).

Figure 2: Scores for Prior Record Variable 2
- Prior *Low* Severity Felony Convictions -
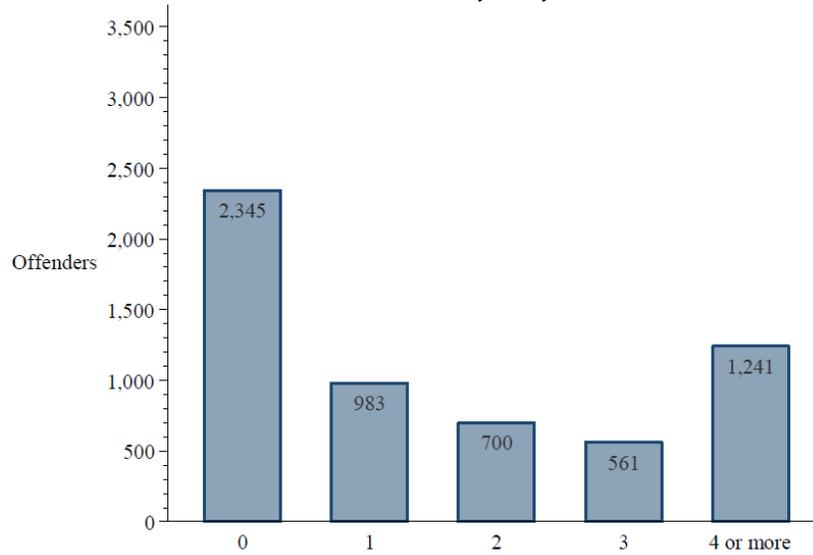
Prior low severity felony conviction: A prior low severity felony conviction is: (1) a conviction for a crime listed in class E, F, G, or H or for a felony under federal law or the law of another state that corresponds to a crime listed in class E, F, G, or H if the conviction was entered before the sentencing offense was committed; or (2) a conviction (entered before the sentencing offense was committed) for a crime punishable by a maximum term of imprisonment of less than 10 years that is not listed in class M2, A, B, C, D, E, F, G, or H; or (3) a conviction (entered before the sentencing offense was committed) under federal law or the law of another state for a crime punishable by a maximum term of imprisonment of less than 10 years that does not correspond to a crime listed in class M2, A, B, C, D, E, F, G, or H. MCL 777.52(2).

Figure 3: Scores for Prior Record Variable 5
- Prior Misdeameanor Convictions or Prior Juvenile Adjudications -
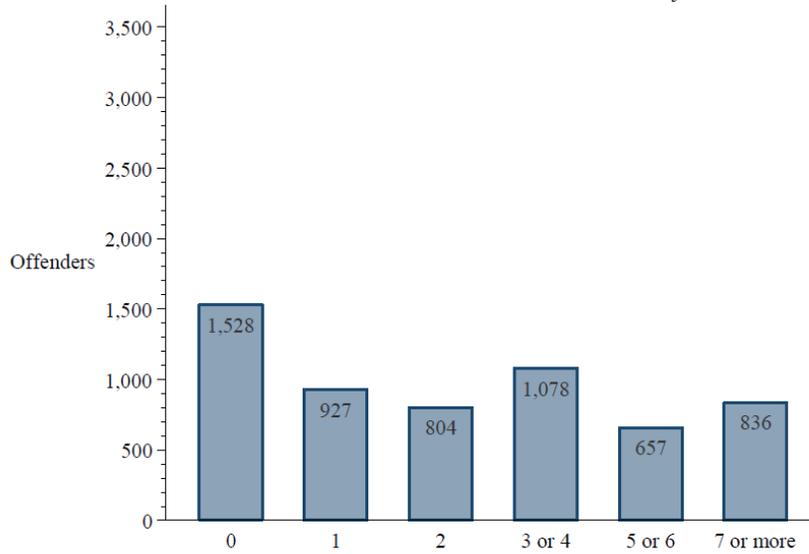
Figure 4: Percentage of Offenders Receiving a Prison Sentence by Month