

final minutes

Criminal Justice Policy Commission Meeting

9:00 a.m. • Wednesday, November 4, 2015

Senate Appropriations Room • 3rd Floor State Capitol Building

100 N. Capitol Avenue • Lansing, MI

Members Present:

Senator Bruce Caswell, Chair
Stacia Buchanan
Senator Patrick Colbeck
D. J. Hilson
Kyle Kaminski
Sheryl Kubiak
Barbara Levine
Sarah Lightner
Laura Moody
Sheriff Lawrence Stelma
Jennifer Strange
Andrew Verheek

Members Excused:

Representative Vanessa Guerra
Senator Bert Johnson
Judge Paul Stutesman
Judge Raymond Voet
Representative Michael Webber

I. Call to Order and Roll Call

The Chair called the meeting to order at 9:00 a.m.

II. Data Subcommittee Update

The Chair called on Commissioner Kubiak to provide an update on the activities of the data subcommittee. Commissioner Kubiak started by first acknowledging that Commissioners Hilson, Verheek, and Kaminski are part of the subcommittee. She then proceeded with an explanation of the handout of a grid that was put together to organize the tasks and areas of data collection required by the CJPC statute (see attachment.) She shared that the subcommittee is in the process of deciding how best to gather the data, what is missing, and whether there are current reliable data sources that can be used. In particular, she noted they are trying to get the data the Council of State Governments gathered and used to prepare their report as this would save the Commission a significant amount of time and resources. The Chair offered that he did not think it is likely that CSG will relinquish their data because of the assurances that were made when the data was collected. Commissioner Kubiak is hoping that there is a way to overcome this hurdle. She pointed out that the Commission may not have to reinvent the wheel especially if it can use any data that has already been gathered. She added that there is a lot of information in the technical guide of the CSG report and suggested a good place to start might be to distribute this technical report to the Commission. She emphasized that the Commission will still need to develop a process of ongoing analysis, however, some of the data already collected by others may be enough to use in the interim to start the discussions.

III. Roll Call

The Chair asked the clerk to take the roll. A quorum was present. Senator Colbeck arrived at 9:10 a.m., Commissioner Kaminski arrived at 9:15 a.m., and Commissioner Buchanan arrived at 10:05 a.m.

IV. Approval of the October 7, 2015 CJPC Meeting Minutes

The Chair asked for a motion to approve the October 7, 2015 Criminal Justice Policy Commission meeting minutes.

Commissioner Hilson moved, supported by Commissioner Verheek, that the minutes of the October 7, 2015 Criminal Justice Policy Commission meeting as proposed be approved. There was no objection. The motion was approved by unanimous consent.

V. Robina Institute Conference Update

The Chair noted that he and Commissioner Hilson attended the Robina Institute's Criminal History Enhancements Sourcebook Conference from October 19-20, 2015 and called on Commissioner Hilson for a report. Commissioner Hilson commented that he found the conference interesting and appreciated the opportunity to participate. He then highlighted some of the discussions he engaged in while he was at the conference which focused on the use of criminal history in sentencing. Overall, he felt the information-sharing at the conference was good and he was impressed by the research the Robina Institute had gathered on this issue. The Chair announced that a copy of the Criminal History Enhancements Sourcebook will be mailed to each member and he strongly urged members to read the sourcebook. He provided a list of things he found most interesting in each of the chapters (see attachment.) A question and answer period followed. Commissioner Stelma inquired about the 9-grid system used in Michigan and it being more equitable for the defendant. Senator Colbeck raised questions about how the Commission defines recidivism and access to data using that definition.

VI. Council of State Governments Recommendations and Findings

The Chair opened a discussion of the three CSG recommendations highlighted at the October 7, 2015 CJPC meeting. The Chair noted that a request for feedback was sent out to members in October and he appreciated those members who responded (see their written statements in the document attached to these minutes.) He then read the first recommendation and each member present had the opportunity to express their thoughts.

#1. Concentrate funding on those programs most likely to reduce recidivism. If you read the CSG report you will see that in order to do this we must establish a consensus around a single definition of recidivism. I would like specific feedback from each of you on two issues here. The first is that do you believe that the recommendation makes sense and you could support it. Second, I would like each of you to send me what you believe we should do in terms of defining recidivism. Please be specific. This is an issue that we must come to agreement on, or we will be spinning our wheels in many areas.

Commissioner Hilson: Supports the concept of concentrating funding on programs to reduce recidivism and need to take multi-tier approach with the definition of recidivism.

Commissioner Levine: Supports the concept of concentrating funding on programs to reduce recidivism and recidivism should be measured as mandated by Sec. 33A(1)(D).

Commissioner Lightner: Need a definition that includes jails and need to advocate that funding goes back to the local level as well.

Commissioner Stelma: Supports spending on programs to reduce recidivism and strongly believes it must include arrests that impact the county level.

Commissioner Verheek: Supports spending on programs to reduce recidivism, but programs need to be fully funded. Supports using multiple measures of recidivism.

Senator Colbeck: Agrees focus should be put on programs to reduce recidivism, but need to look at cost benefit ratio and prioritize programs that demonstrate doing the most with the least amount of money. Agrees with multi-tier model for definition of recidivism, but in terms of a timeline need to conduct some sort of a sensitivity analysis to determine.

Commissioner Kubiak: Agrees with multi-tier level for definition of recidivism and agrees we need to capture multiple indicators including probation and parole violations.

Commissioner Kaminski: Not opposed to multi-tier approach, but it is important to MDOC that they still be able to compile their measure. Cautions that parole and probation population not be combined when measuring, it is important to take into account where individuals are in the system leading up to whatever their start point is, and not use too long of a timeline in the definition of recidivism.

Commissioner Moody: Agrees with focusing programs on reducing recidivism and agrees multi-tier approval as long as it includes rearrests.

Commissioner Strange: Agrees with focusing programs on reducing recidivism and agrees with multi-level approach, but need to be mindful of mental health and substance abuse treatment issues.

The Chair stated that since it appears everyone agrees with using a multi-tier approach and including rearrests in the definition of recidivism, he will put something together and will send it out to the Commissioners for review to begin work on the verbiage. He continued with comments regarding the provisions of the Commission's statute and issues regarding the timelines being considered.

Commissioner Buchanan arrived and the Chair asked for her thoughts regarding the first recommendation. She supports spending on programs to reduce recidivism and is unsure of the length of time to consider, but does not agree with including rearrests as she feels there needs to be a conviction.

The Chair asked for any questions or comments.

Commissioner Levine offered comments regarding the timeframe issue for sentencing guidelines and re-offense rates. She also commented that the data needs to reflect the distinction, for both probation and parole violations, between technical violations and a new conviction.

Commissioner Verheek asked Commissioner Kaminski if he could share the department's probation and parole violations guidelines. Commissioner Kaminski indicated that he will provide that information.

Commissioner Hilson offered comments on his experience with how probation and parole violations are handled in Muskegon County and noted it would be interesting to see the reasons probation and parole violators are going back to prison.

Commissioner Kubiak indicated that there is a way to look at probation violations that are technical in nature and this would be an important indicator of not only the individual but the program as many of the violations occur when people don't engage in treatment.

Commissioner Strange agreed many violators disengage in treatment and this would be an interesting area to look at.

The Chair asked Commissioner Kaminski if the department could supply data on technical violators and how many are a result of not meeting the requirements of their treatment. Commissioner Kaminski responded that it might be challenging, but he will try to see what they can come up with.

Commissioner Lightner shared some statistical information she read from the Michigan Prisoners Violent Crime and Public Safety Prosecutors' Report and suggested it might be helpful to contact the Prosecutors Association to receive some of the local statistical data they have.

Commissioner Moody commented that the Commission does need to be careful of anecdotal evidence and it is important to look at the actual data. She added that if the Commission does take a look at this area, we need to be careful not to take the teeth out of judges and enforcement.

The Chair noted that it appears there are different views as to whether probation and parole violations are technical and don't rise to the level of a crime and asked member to consider if there is some middle ground on this issue.

Commissioner Stelma agreed about anecdotal evidence and added that, from an operational standpoint, it is important to get the data and not lose sight of the victims.

Commissioner Verheek commented that, based on how the data is now collected, it might be hard to establish middle ground if we don't have the data to determine where that middle ground might be. He added that because of the variety of probation officers that fill out probation discharges differently, it will be a difficult task to collect and track technical probation violations accurately. He also agreed with Commissioner Kubiak that in terms of looking at technical probation violations, it is important for programs to have part of the definition that looks at measuring recidivism to be based on program participation.

Commissioner Levine noted that CSG had a recommendation that placed some limits on when probation could be revoked and we might want to look back at the formula they developed. She acknowledged the difficulty in finding middle ground and determining when you impose criminal punishment for non-criminal behavior.

A conversation of the previous discussions of the CSG recommendations and the Swift and Sure program followed. At the request of the Chair, Commissioner Hilson will take a look at the CSG recommendation regarding supervision violations and propose language that would be acceptable to the Prosecutors' Association.

The Chair will attempt to put something together on this first recommendation and will send it out to members for review and feedback.

The Chair read the second recommendation.

#2. Monitor changes to the state's sentencing practices, along with their impact. This issue must be phrased in such a way that we show respect to the legislature and their law making ability, but also point out that an on-going analysis of the criminal justice system is vitally important for the state. We need a staff of 5 people or so to do proper research of the guidelines and help us to make thoughtful recommendations to the legislature. Please give me your best shot on how this recommendation should read.

The following are the previously submitted written statements:

Representative Guerra: I have interpreted this recommendation as one that is aimed at obtaining funding for the commission since it has already been established the purpose of the CJPC is to provide "on-going analysis of the criminal justice system." That being said, I have found language in Maryland's State Commission on Sentencing Policy that addresses funding in this way: "(a) In addition to any other powers set forth elsewhere, the Commission may: (2) require each State unit and local government unit to give information to the Commission on request; and (3) apply for, accept, and use grants or financial or other aid from a public or private source to accomplish the duties established in this part." If I'm on the right track with this recommendation I can take a look into how other states fund such commissions.

Commissioner Hilson: I would combine my comments on 2 and 3. I like the idea of five people being involved in looking not only at the impact of the guidelines, but how they can be structured to produce consistent sentences. I have not had a chance to really write out a potential recommendation, however, I would suggest that the key stakeholders (DOC, Prosecutor, AG, Defense, Judges) be a big part of how this area might be reviewed. As these five stakeholders are key components to these two areas, it makes sense to have them take a major role in reviewing, analyzing, and assisting the commission in making any recommendations to the legislators.

Commissioner Levine: The Commission should not just be monitoring changes to sentencing practices going forward. It should be doing a full-scale assessment of how the guidelines have worked since adopted. I believe the statutory mandate spelled out in Section 33A(F) offers sufficient guidance regarding what this analysis should include. Section 32a(10) already mandates that the Legislative Council provide necessary staff, space and equipment. Five staff would seem to be a very reasonable place to start.

Commissioner Lightner: Monitor changes to the state's sentencing practices, along with their impact. The statement from my perspective is directed at the judges and their "practice" of sentencing. Rather than changes in the guidelines, which are meant to be a helpful tool in determining sentences, maybe we take a look at the penalties within the statutes for crimes and review them. By taking a look at the penalties first with legislative assistance, we can still let the judges have discretion in setting the appropriate punishment within the statutory penalty. Maybe some of the penalties need to be reviewed in that some may need more clarity in punishment and some less of a punishment. Consideration of the victims and how the crime impacts society should be given as well. However, the statement as is with an add on of "by recommending courts enter sentencing specifics in a data warehouse", could be helpful to us in determining the need for changes in the guidelines. Consistent data entry would be beneficial in this case as we know from the presentation a couple months ago, data is not consistently entered by the individual courts.

Commissioner Stelma: This is closely aligned with issues 1 and 3. Without a definition of recidivism and without a definition of "more consistent sentences", or a goal or target on this issue, I'm at a loss as to how to define a need to monitor changes in sentencing practices.

Commissioner Verheek: My suggested changes would read something along these lines - "Utilizing available resources, the Criminal Justice Policy Commission will collect, analyze, and report out on Michigan's sentencing practices and their impact on state and local resources. Any recommendations on potential changes to sentencing practices will be forwarded to the Michigan Legislature for their consideration and potential legislative action." Given that we have not received any funding from the Legislature and it doesn't appear that this will be occurring anytime soon, I'm shying away from mention of the staff of 5 people or more. "Available resources" would include the work of the data subcommittee and the reports that are developed through their efforts.

Comments from Commissioners who had not previously submitted a statement:

Commissioner Strange: Agrees with the use of available resources and need for uniformity and consistency of data collection.

Commissioner Kubiak: Agree that data subcommittee can create a historical snapshot of what is currently in the sentencing guidelines, but moving forward need resources to continue ongoing analysis.

Commissioner Kaminski: Nervous of "utilizing available resources" because this could become MDOC resources. Commission should contemplate asking for additional resources.

The Chair then expressed his thoughts about the need for ongoing analysis and additional resources.

Due to time constraints, the Chair noted that the Commission will take up Recommendation #3 at the next meeting.

VII. Commissioners' Comments

The Chair asked for additional comments from the members. Commissioner Hilson commented on the progress made. Commissioner Moody is encouraged by the amount of consensus achieved so far. Commissioner Stelma agreed. Commissioner Strange commented on the sharing of anecdotal evidence. The Chair expressed his appreciation and respect to the members for their time and effort on the Commission.

VIII. Public Comment

There were no public comments.

IX. Next CJPC Meeting Date

The next CJPC meeting is scheduled for **Wednesday, December 2, 2015, at 9:00 a.m. in the Senate Appropriations Room, 3rd Floor of the State Capitol Building.**

X. Adjournment

There was no further business. The Chair adjourned the meeting at 11:55 a.m.
(Minutes approved at the December 2, 2015 CJPC meeting.)

SPK

DRAFT

October 2015

MI CJ POLICY COMMISSION

As established by House Bill #5928 and approved by the Governor on January 15, 2015, Section 33a. (1) states: "The criminal justice policy commission shall do the following:"

33a.(1) (a) – (e) all propose research related activities (i.e., collect, prepare, analyze....conduct ongoing research, etc.).

Statute:	Areas defined as requiring analysis	Definition (assumed)	Possible Source of Data	Available	Analysis or other action Required
33a. (1) (a)	local sentencing	Proportion of individuals sentenced annually, by county, to prison, jail, probation or other by SG category (SGL NA; Intermediate; Straddle; Presumptive)	Judicial Warehouse; OMNI Statewide SG Report 2012/13 and MDOC data	x	Review of Judicial Warehouse variables
	proposed release policies and practices for felonies	? Parole policy/procedures?			
	Use of Jails	Available jail beds (statewide/county); Average annual Jail utilization (statewide/counties)	JPIS Reports* (54 or 84 counties available – 85% or state jail beds). Website data to 2010; Sheriff Association	X	need up to date and accurate data
	Use of Prisons	Capacity statewide (prison beds); utilization	MDOC Annual Statistical Reports; OMS data	X	
33a.(1)(b)	Misdemeanor Sentences	Proportion of jail utilization by %/# of those sentenced (adm before/after sentencing) as well as those with unsentenced misdemeanors.	JPIS Report has aggregate data on those utilizing jail beds for misdemeanors; but sentencing overall would likely need to come from judicial warehouse or SCAO.	X	aggregate data in JPIS – but accuracy and missing data problems
	detention of defendants pending trial; effect on jails	Average daily population and % of jail beds (statewide/county) utilized by those who are unsentenced; by felony or misdemeanor.	JPIS Report on most counties, data needs to be updated. Website data to 2010	x	FY2016 requires jail capacity reporting**
33a.(1)(c)	Effectiveness on sentencing guidelines (see subdivision f)				

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October 2015

33a.(1)(d)	Effect of SG and other policies on prison population	<i>Assumed meaning: Do fluctuation in sentences, within the SG, affect the number of individuals incarcerated by year?</i>	OMNI and OMS data; merged	x	requires extensive data management and analysis
	Effectiveness to reduce recidivism as defined below:	See Below			
	i. rearrest, resentence, return to prison	<i>Assumed meaning: Based on sentencing guidelines, actual sentence, and time in prison (length of stay) assess differences in rearrest, resentence and return to prison.</i>	MDOC and OMNI data would provide for resentence and return to prison. Re-arrest data – MSP?	x	requires extensive data management and analysis
	ii.1, 2,3 yr intervals after exiting prison	<i>Unclear what they are asking for here?</i>			
	iii. data statewide, locality and program	<i>Unclear what they are asking for here? By program – are they referring to treatment programs; specialty courts?</i>			
33a.(1)(e)	effect of SG on caseload, docket flow, case backlog	<i>Assumed meaning: How does the implementation/use of the SG in an particular jurisdiction effect caseload, docket flow and case backlog.</i>	Judicial Data Warehouse; OMNI data (likely need to be integrated data sets)		requires extensive data management and analysis

NOTE: *Jail (JPIS) data available on the Michigan Community Corrections website was last updated in 2010. 2010 data includes information on 54 of 84 counties, representing 85% of state jail beds. Can more current data be obtained? Is there a database that can be manipulated? Is there individual level data?

**Per Kyle, FY 2016 Boilerplate language requires jail reporting elements. Kyle, do you know what elements are required and where the data will be housed?

Judicial Data Warehouse: a request was made to determine the variables and source of those variables within the data warehouse. Code book received.

Council of State Government data: Possible to secure?

CRIMINAL HISTORY ENHANCEMENTS SOURCEBOOK
SUGGESTIONS
11 NOVEMBER, 2015

1. Validate our criminal history formulas to ensure that they predict the risk of future offending. p. 7
2. Identify our goals and principles related to criminal history enhancements, in general and for each criminal history score component. Use sentencing data to examine how well those goals and principles are being followed. Consider changes in criminal history scoring and or weight, to better achieve the system's goals and principles. p. 8
3. Is the primary sentencing objective prevention or punishment or a combination of both? We should make this explicit so that all parties are clear as to the ways prior convictions are counted at sentencing. p. 11 & p. 13 & p. 14
4. The magnitude of criminal history enhancements has two aspects. (1) The extent to which criminal history leads to a greater likelihood of imprisonment and (2) the extent to which the duration of imprisonment is increased. p. 19
5. Examine the magnitude of criminal history enhancements and decide whether the resulting impacts are consistent with our policy goals. p. 19
6. Where the in/out disposition line is drawn on a grid constitutes an important policy decision. Jurisdictions with grids that have a relatively high proportion of cells for which the in/out disposition is based solely on criminal history will likely have higher proportions of offenders recommended for prison. p. 22
7. The greater the criminal history sentence length multiplier, the more significant the impact an offender's criminal history will have on overall sentencing outcomes. p. 23,24
8. Explore ways to reduce the criminal history enhancement magnitude. p. 27
9. We need to look at our decay or gap periods. p. 36 Every state has a different methodology. We simply need to look at what we are doing and see if we feel it is best for our state.
10. What counts as a prior conviction? p. 40 & 43
11. Juvenile adjudications. Do we count them all for criminal history purposes, count none, weight them differently than adult crimes, or only count some of them? We currently count all of them but give felonies less weight than an adult felony. p. 52
12. Should we adjust our use of prior misdemeanors in sentencing enhancement? We currently do not allow such misdemeanors to be counted if they are used in law to enhance the current offense. Should we use misdemeanors if the defendant did not have benefit of counsel? p. 55, 59, 60
13. We do not have patterning rules in effect in Michigan. Should we? p. 63, 66
14. We need to look at our offense weighting rules and determine if they are consistent with our punishment goals. There are many ways of doing this. p. 72 & 79
15. We impose a severity premium if the offender was on probation, parole, or in jail at the time of the current offense. This enhancement affects about 25% of all offenders appearing for sentencing. We know little about the degree to which custody status increases the risk of further offending. The use of custody status as a criminal history enhancement may be more questionable than other dimensions of a criminal record. p. 83
16. We may want to weight custody status differently than prior convictions. p. 86
17. How we treat multiple current offenses can affect uniformity. We have no limits so judges are free to do what they wish in this regard. We should examine the punishment purposes we

believe are served by enhancing sentences based on multiple current convictions. From this we should consider rules changes for judges. p. 91, 93

18. Although an offender's criminal history is clearly related to his risk of recidivism, the risk-predictive accuracy of each guidelines system's criminal history score and all score components should be validated using recidivism data. The risk-prediction value of each score component should also be measured against the added costs or other negative consequences of the sentence enhancements associated with that component. p. 98
19. We should discuss allowing judges to take account of well-documented risk factors beyond criminal history (eg advancing age, young age, substance abuse) as additions or adjustments to the criminal history score or as grounds for departure, so as to further improve risk predictive accuracy and efficiency. p. 98
20. It is important to determine whether particular guidelines, sentencing rules, and policies are contributing to minority over-representation in prisons. We should also examine the racial impact of all components of our criminal history scoring. p. 116

October 12, 2015: Responses to CSG recommendations highlighted at October 7, 2015 CJPC meeting

#1. Concentrate funding on those programs most likely to reduce recidivism. If you read the CSG report you will see that in order to do this we must establish a consensus around a single definition of recidivism. I would like specific feedback from each of you on two issues here. The first is that do you believe that the recommendation makes sense and you could support it. Second, I would like each of you to send me what you believe we should do in terms of defining recidivism. Please be specific. This is an issue that we must come to agreement on, or we will be spinning our wheels in many areas.

Representative Guerra:

1. I do believe that the policy recommendation for Finding 5 makes sense and I could support it. When it comes to a definition of recidivism, I think it makes the most sense to adopt whichever definition appears to be used most by the research and data we plan to use. I know we talked about creating a subcommittee that would work with data collection so I would suggest, depending on what data is collected, that we would use the definition that was most used in the research that was done to produce said data.

DJ Hilson

1. I do believe this is a good concept to support. From my inquiries recently from some other sentencing commissions across the country, it is very difficult to come up with one standard definition of recidivism. I think we need to take a multi-tiered approach on this. For example we look at data that captures, re-arrest, re-incarceration (jail and prison) and re-conviction. The time period can be 3-5 years. Until we get a whole picture look at what the folks are doing after prison we can never fully address this issue or the other issues we have been asked to look at.

Barb Levine

1. YES, IT MAKES SENSE TO CONCENTRATE CRIMINAL JUSTICE RESOURCES ON PROGRAMS THAT REDUCE RECIDIVISM. RECIDIVISM SHOULD BE MEASURED AS MANDATED BY SEC. 33A(1)(D) TO INCLUDE REARREST RATES, RESENTENCE RATES AND RETURN TO PRISON RATES. THESE MEASUREMENTS SERVE DIFFERENT PURPOSES AND APPLY DIFFERENTLY TO DIFFERENT POPULATIONS. THERE IS NO CONFLICT IN TRACKING ALL THREE AS LONG AS THE END USER UNDERSTANDS WHAT IS BEING REPORTED.

I WOULD ONLY ADD ONE ADDITIONAL REQUIREMENT THAT REFLECTS HOW THE MDOC ALREADY COMPILES THIS DATA: FOR BOTH PROBATION AND PAROLE VIOLATORS, THE BASIS OF THE PRISON COMMITMENT SHALL BE IDENTIFIED AS EITHER A TECHNICAL VIOLATION OF A SUPERVISION RULE OR A NEW SENTENCE FOR A NEW OFFENSE.

Sarah Lightner

1. Recidivism- A return to prison or jail for any crime within 3 years of release from prison or jail.

Lawrence Stelma

1.-a: For the many obvious public safety benefits, I do support "funding programs most likely to reduce recidivism".

B: Defining recidivism will be difficult – perhaps impossible – to define in a way that all organizations such as county jails, MDOC, public and private re-entry programs, probation and parole, etc. would agree upon. I believe Michigan should join the national trend and use the definition as recognized by the Bureau of Justice Statistics which is "any arrest in 5 years". The benefit of providing true information recognizing criminal behavior for policymakers and practitioners is essential for public safety and is the gist of our mission. Perhaps this is the definition we as the commission can use and I would predict that in time, the rest of the involved organizations and parties will join us.

Andrew Verheek

1. Concentrate funding on those programs most likely to reduce recidivism.

If you read the CSG report you will see that in order to do this we must establish a consensus around a single definition of recidivism. I would like specific feedback from each of you on two issues here. The first is that do you believe that the recommendation makes sense and you could support it. Second, I would like each of you to send me what you believe we should do in terms of defining recidivism. Please be specific. This is an issue that we must come to agreement on, or we will be spinning our wheels in many areas.

I think we find ourselves in a bit of a bind here. While there is a desire to have a single definition of recidivism, I'm not sure that its doable or advisable to have a single definition. We really paint ourselves into a corner if we chose a single definition of recidivism going forward. For example, if we use a return to prison for a pv or new felony offense, we have just excluded a vast majority of crime where offenders may be sentenced to jail, probation, etc. Additionally, using this definition of recidivism also excludes misdemeanor offenders who are not eligible for prison but may receive jail time for their offenses. I believe that our guiding legislation calls for multiple measures of recidivism and this may be the best path for us at this point. Having said that, if we had to pick a single definition (and as they say, I'm holding my nose at making this call/suggestion given my choice of having multiple definitions), I'd vote for defining recidivism as reincarceration in jail or prison for any felony offense after release from MDOC supervision (either prison, parole, or probation). While this, admittedly, excludes misdemeanors, we would have a better, more holistic view of recidivism rather than just looking at recidivism involving a prison disposition.

#2. Monitor changes to the state's sentencing practices, along with their impact.

This issue must be phrased in such a way that we show respect to the legislature and their law making ability, but also point out that an on-going analysis of the criminal justice system is vitally important for the state. We need a staff of 5 people or so to do proper research of the guidelines and help us to make thoughtful recommendations to the legislature. Please give me your best shot on how this recommendation should read.

Rep. Guerra

2. I have interpreted this recommendation as one that is aimed at obtaining funding for the commission since it has already been established the purpose of the CJPC is to provide "on-going analysis of the criminal justice system." That being said, I have found language in Maryland's State Commission on Sentencing Policy that addresses funding in this way: "(a) In addition to any other powers set forth elsewhere, the Commission may: (2) require each State unit and local government unit to give information to the Commission on request; and (3) apply for, accept, and use grants or financial or other aid from a public or private source to accomplish the duties established in this part." If I'm on the right track with this recommendation I can take a look into how other states fund such commissions.

DJ Hilson

2. I would combine my comments on 2 and 3. I like the idea of five people being involved in looking not only at the impact of the guidelines, but how they can be structured to produce consistent sentences. I have not had a chance to really write out a potential recommendation, however I would suggest that the key stakeholders (DOC, Prosecutor, AG, Defense, Judges) be a big part of how this area might be reviewed. As these five stakeholders are key components to these two areas, it makes sense to have them take a major role in reviewing, analyzing, and assisting the commission in making any recommendations to the legislators.

Barb Levine

2. THE COMMISSION SHOULD NOT JUST BE MONITORING CHANGES TO SENTENCING PRACTICES GOING FORWARD. IT SHOULD BE DOING A FULL-SCALE ASSESSMENT OF HOW THE GUIDELINES HAVE WORKED SINCE ADOPTED. I BELIEVE THE STATUTORY MANDATE SPELLED OUT IN SECTION 33A(F) OFFERS SUFFICIENT GUIDANCE REGARDING WHAT THIS ANALYSIS SHOULD INCLUDE.

SECTION 32a(10)ALREADY MANDATES THAT THE LEGISLATIVE COUNCIL PROVIDE NECESSARY STAFF, SPACE AND EQUIPMENT. FIVE STAFF WOULD SEEM TO BE A VERY REASONABLE PLACE TO START.

Sarah Lightner

2. Monitor changes to the state's sentencing practices, along with their impact. The statement from my perspective is directed at the judges and their "practice" of sentencing. Rather than changes in the guidelines, which are meant to be a helpful tool in determining sentences, maybe we take a look at the penalties within the statues for crimes and review them. By taking a look at the penalties first with legislative assistance, we can still let the judges have discretion in setting the appropriate punishment within the statutory penalty. Maybe some of the penalties need to be reviewed in that some may need more clarity in punishment and some less of a punishment. Consideration of the victims and how the crime impacts society should be given as well. However, the statement as is with an add on of "by recommending courts enter sentencing specifics in a data warehouse" ,could be helpful to us in determining the need for changes in the guidelines. Consistent data entry would be beneficial in this case as we know from the presentation a couple months ago, data is not consistently entered by the individual courts.

Lawrence Stelma

2. This is closely aligned with issues 1 and 3. Without a definition of recidivism and without a definition of "more consistent sentences", or a goal or target on this issue, I'm at a loss as to how to define a need to monitor changes in sentencing practices.

Andrew Verheek

2. Monitor changes to the state's sentencing practices, along with their impact.
This issue must be phrased in such a way that we show respect to the legislature and their law making ability, but also point out that an on-going analysis of the criminal justice system is vitally important for the state. We need a staff of 5 people or so to do proper research of the guidelines and help us to make thoughtful recommendations to the legislature. Please give me your best shot on how this recommendation should read.

My suggested changes would read something along these lines - "Utilizing available resources, the Criminal Justice Policy Commission will collect, analyze, and report out on Michigan's sentencing practices and their impact on state and local resources. Any recommendations on potential changes to sentencing practices will be forwarded to the Michigan Legislature for their consideration and potential legislative action." Given that we have not received any funding from the Legislature and it doesn't appear that this will be occurring anytime soon, I'm shying away from mention of the staff of 5 people or more. "Available resources" would include the work of the data subcommittee and the reports that are developed through their efforts.

#3. Structure sanctions in the guidelines to produce more consistent sentences.

This recommendation will need a lot of work to properly phrase the intent of what we wish to recommend. Please re-read the CSG report on this issue and for those of you who were involved in discussions last fall please bring into our discussion any ideas that surfaced at that time. Write up what you think should be included or excluded from this recommendation. Please be specific as I believe we need to be in order to be helpful to the

Governor and legislature. Keep in mind we are trying to create a recommendation that will help alleviate current problems but also be able to be adjusted in future years.

Rep. Guerra

3. I will send something ASAP, wanted to get the above responses to you by the 23rd.

Barb Levine

3. TO INCREASE CONSISTENCY OF SENTENCING AMONG OFFENDERS WITH SIMILAR PRIOR RECORDS WHO HAVE COMMITTED SIMILAR OFFENSES, THE SENTENCING GUIDELINES RANGES SHOULD BE NARROWED, THE PLACEMENT OF CRIMES ON GRIDS SHOULD BE RECONSIDERED AND THE STARTING POINT FOR EACH RANGE SHOULD BE REEXAMINED IN LIGHT OF AVAILABLE DATA ABOUT CURRENT SENTENCES. IN ADDITION, GIVEN THE ENORMOUS INCONSISTENCY AMONG COUNTIES IN THE USE OF THE HABITUAL OFFENDER STATUTES, THE CSG RECOMMENDATION TO LIMIT THE DOUBLECOUNTING OF PRIOR OFFENSES THAT RESULTS FROM SCORING THEM IN THE PRIOR RECORD VARIABLE AND USING THEM AS THE BASIS FOR HABITUAL OFFENDER CHARGES SHOULD BE ADOPTED.

Sarah Lightner

3. I agree with the statement the statement as written with some expanded language. Presumptive sentence of probation, jail or prison I can see as a positive in each cell. The cost savings of this should be rolled back to the local level to cover the cost of the increase jail sentences and probation sentences. That needs to be clear when making a positive recommendation to the legislature and governor. If local funds are not received then, I would have to oppose any enforcement of presumptive sentencing as it causes unfunded mandates on the counties. We could also look at the HO points assessed and not count them twice to reduce disparity in sentencing.

Lawrence Stelma

3. I am not convinced that "more consistent sentences" is an issue and I have not been convinced that current parameters is bad or wrong. What does "more consistent" mean and what is the target and goal? All the exact same, within a certain percentage of each other or within the parameters as set by the legislature? Personally, I think they are appropriate right where they are.

Andrew Verheek

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While this is important, my thought on this is that we need to tackle the other two recommendations mentioned above before we can really discuss and make recommendations tied to this issue. Without knowing the data, definition/s of recidivism, etc., I don't think we can do justice to structuring sanctions in the guidelines to produce more consistent sentences. Additionally, meeting this objective involves some open and honest dialogue on regional differences in terms of sentencing and an acknowledgment of how different punishment philosophies may impact any sentencing structure in Michigan. So at this point, I'd vote to table any recommendations here until we've hammered out the previous two recommendations.