

# final minutes

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## **Criminal Justice Policy Commission (CJPC) Meeting**

9:00 a.m. • Wednesday, July 10, 2019

Room 6900 • 6<sup>th</sup> Floor of the Binsfeld Office Building

201 Townsend Street • Lansing, MI

### **Members Present:**

Dr. Amanda Burgess-Proctor, Chair  
Ronald Bretz  
Honorable Chuck Goedert (teleconference)  
D.J. Hilson  
Kyle Kaminski  
Sheryl Kubiak (teleconference)  
Sheriff Michelle LaJoye-Young  
Barbara Levine  
Senator Peter Lucido  
Kenneth Mitchell  
Representative Isaac Robinson (teleconference)  
Senator Sylvia Santana (teleconference)  
Judge Paul Stutesman  
Andrew Verheek

### **Members Excused:**

Brian Kolodziej  
Representative Beau LaFave  
Jennifer Strange

### **I. Convening of Meeting and Roll Call**

The Chair called the meeting to order at 9:01 a.m. and asked the clerk to take the roll. A quorum was present. Representative Robinson and Senator Santana joined the meeting shortly after roll call was taken. Absent members were excused.

### **II. Approval of the June 5, 2019 Criminal Justice Policy Commission Meeting Minutes**

The Chair asked members if there were any additions or corrections to the proposed June 5, 2019 CJPC meeting minutes. There were none. **Commissioner LaJoye-Young moved, supported by Commissioner Hilson, to approve the minutes of the June 5, 2019 Criminal Justice Policy Commission meeting as proposed. There was no further discussion. The minutes were approved by unanimous consent.**

### **III. Discussion of CJPC Next Steps**

The Chair opened a discussion of the Commission's consensus statement and entertained a motion to approve the consensus statement as proposed (see attached). **Judge Goedert moved, supported by Commissioner Levine, to approve the consensus statement urging the Michigan Legislature to extend the Commission's sunset. There was no further discussion.**

**The motion prevailed with a vote of 12-0-0.**

### **FAVORABLE ROLL CALL:**

**YEAS: Commissioners Burgess-Proctor, Bretz, Goedert, Hilson, Kaminski, Kubiak, LaJoye-Young, Levine, Lucido, Mitchell, Stutesman, Verheek.**

**NAYS: None.**

**PASS: None.**

The Chair noted that the statement will be distributed to the members of the Legislature and the Governor. She also asked that the consensus statement be taken back to the Commission members' respective organizations and that emails and letters of support should be directed to herself and the Commission clerk. A discussion of other stakeholder groups that should receive the consensus statement followed. Commissioner Kubiak proposed that the co-chairs and members of the Governor's Jail Task Force should receive the statement and Commissioner Levine recommended the statement be sent to the Diversion Council. The consensus statement will be posted on the Commission's website along with a listing of any supporting organizations.

Representative Isaac Robinson joined the meeting via teleconference at 9:10 a.m.

Senator Lucido proceeded with an update on legislative efforts to extend the CJPC for 4-years and indicated that he and his staff will work with Representative Robinson and the other legislative members to get the bills passed.

Representative Robinson reported that he has requested a double-set of bills be drafted that can be separated into two sections, and he will hand over a set of the bluebacks to Senator Santana or Senator Lucido so that the bills can be introduced in both chambers. A discussion of extending the Commission for 4-years versus indefinitely and the amount of an appropriation that the Commission would need followed. As the conversation progressed, the Chair noted that it may be helpful to justify any appropriation request by providing an itemized list of specific tasks the Commission would like to do along with an approximation of how much those tasks might cost. To help facilitate future appropriation discussions and to give Commission members a better idea of what has been done under the current budget, the Chair will share a breakdown of the Commission's yearly expenditures and assured members that, if the Commission is extended and if there is more money appropriated, there will be opportunity for feedback from the Commissioners on any future expenditures. Judge Stutesman commented that, because it is almost impossible to hear the discussion if a member is participating in the meeting by telephone, it might be worth looking into purchasing a better system to help facilitate audio conferences. The Chair will also compile and share appropriation information on other similar commissions from within Michigan and from other states as well.

Judge Goedert was excused at 9:45 a.m.

#### **IV. Data Subcommittee Update**

##### **Draft Report: Evaluation of Straddle Cell Sentencing in Michigan Class B and C Felonies**

The Chair called on Grady Bridges for an update of the Class B and C Felonies draft report (see attachment). Mr. Bridges provided an overview of the draft B and C report and highlighted the findings and any major departures from any of the previous versions. Judge Stutesman asked that the number of cases of "Convicted at Trial" and the number of cases "Pled Guilty" be added to Table 11 on page 23. The Chair noted that this change will be made as well as any changes necessary after the report is sent through Legal Editing for proofing. Commissioner Verheek wondered if it would be possible to bring the data found in Table E-1 from all three reports together into a similar table to show the similarities and differences from all three reports. Mr. Bridges responded that he has already pulled this table together and that it might make more sense to include this table in a final summary report which the Commission will be discussing later in the meeting. In terms of utilizing the reports, Judge Stutesman pointed out that one of the big things to consider is the analysis of the effect of prosecutor plea offers. A discussion of coding plea information as a future task for the Commission to undertake followed.

The Chair laid before the Commission the proposed Evaluation of Straddle Cell Sentencing in Michigan Class B and C Felonies final report as amended.

**Commissioner LaJoye-Young moved, supported by Commissioner Hilson, to approve the Class B and C Felonies Final Report as amended by adding the number of cases as proposed by Judge Stutesman to Table 11 and making any proofing corrections found after the report is reviewed by LSB Legal Editing. There was no further discussion.**

**The motion prevailed with a vote of 11-0-0.**

##### **FAVORABLE ROLL CALL:**

**YEAS: Commissioners Burgess-Proctor, Bretz, Hilson, Kaminski, LaJoye-Young, Levine, Mitchell, Representative Robinson, Senator Santana, Stutesman, Verheek.**

**NAYS: None.**

**PASS: None.**

The Chair distributed for consideration a proposed draft cover letter to accompany the Class B and C report (see attachment). The reference that the Commission has completed its systematic review will be changed along with the addition of language at the end of paragraph 3 that clarifies that the straddle cell analyses provide the foundation for the Commission's on-going analysis and the Commission intends to build on this work by examining additional areas of interest including sentence length and recidivism.

**Commissioner Hilson moved, supported by Commissioner LaJoye-Young, to approve the proposed cover letter as amended. There was no further discussion.**

**The motion prevailed with a vote of 11-0-0.**

**FAVORABLE ROLL CALL:**

**YEAS: Commissioners Burgess-Proctor, Bretz, Hilson, Kaminski, LaJoye-Young, Levine, Mitchell, Representative Robinson, Senator Santana, Stutesman, Verheek.**

**NAYS: None.**

**PASS: None.**

The Chair laid the Commission at ease at 10:30 a.m.

The Chair reconvened the Commission at 10:42 a.m.

**V. Prior Record Variable (PRV)/Habitual Offender Subcommittee Update**

The Chair called on Commissioner Levine for an update. Commissioner Levine provided an overview of what was discussed at the June 18 subcommittee meeting including a discussion that the guidelines need to be changed initially to solve the problem of double-counting. She noted that the subcommittee is inclined to recommend to the full Commission the elimination of the increase in the cell ranges that depend on whether the defendant has been convicted as a second, third or fourth offender. Another possibility is to prohibit using specific prior convictions both in the guideline scoring and to be habitualized. A third option is to at least substantially reduce the extent of the increase allowed because of a habitual offender charge. She then shared that the issue of double-counting is complex and will take a lot more research, but this is the direction the subcommittee would like to go if the Commission is extended. Commissioner Levine also added that another big project the subcommittee would like to look at if the Commission is extended is individual prior record variables and how they are scored to assess the impact of potential disparities on sentence outcomes. She continued with a summary of the People v Gardner opinion by the Michigan Supreme Court and offered that the subcommittee will put together language for a fix to the habitual offender statute that can be recommended to the Michigan Legislature. Although he agrees that this issue needs to be looked at, Commissioner Hilson commented that he is not able to agree to any recommendations and policy language changes without running it through his subcommittee and full membership. He is also cautious about the Commission proposing specific policy language and not just recommendations to the Legislature. A general discussion of the mechanism for sharing the Commission's work and making recommendations to the Legislature followed. The Chair charged the subcommittee with the task of coming up with a one or two-page summary and recommendation regarding the Gardner opinion so that it can be reviewed at the August meeting.

**VI. Discussion of Summary Report and Recommendations**

The Chair opened a discussion of the preparation of a summary report and potential recommendations. She called on Mr. Bridges to outline what a potential report might look like. Mr. Bridges provided a broad overview of the structure of the summary report which he envisions could include a background section, a findings of previous reports section, and a recommendation section. The discussion of potential recommendations including the preliminary recommendations submitted by Commissioners Kaminski, Hilson and Levine continued (see attachment). Commissioner Verheek summarized that the three recommendations to be included in the reports so far are for the creation of a data base, changes to the guidelines as suggested by Commissioner Levine, and community reinvestment. Commissioner LaJoye-Young asked that a recommendation regarding the impact on county jails also be included. The Chair indicated that she would welcome any member's assistance in drafting the proposed recommendations and the conversation of the proposed recommendations and the first portion of the summary report will continue at the August meeting.

**VII. Commissioner Comments**

The Chair asked if there were any Commissioner comments. There were no other Commissioner comments.

**VIII. Public Comments**

The Chair asked if there were any public comments. There were no public comments.

**IX. Next CJPC Meeting Date**

The Chair announced that the next Criminal Justice Policy Commission is scheduled for **Wednesday, August 7, 2019, at 9:00 a.m.** Sheriff LaJoye-Young noted that she will not be able to attend the next meeting and there were no objections to the date. The location for the meeting is to be determined and will be announced later.

**X. Adjournment**

There being no further business before the Commission and seeing no objection, the Chair adjourned the meeting, the time being 11:59 a.m.

*(These minutes were approved at the August 7, 2019 CJPC meeting.)*