

final minutes

Criminal Justice Policy Commission Meeting

9:00 a.m. • Wednesday, October 7, 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
Representative Vanessa Guerra
D. J. Hilson
Senator Bert Johnson
Kyle Kaminski
Sheryl Kubiak
Barbara Levine
Sarah Lightner (via teleconference)
Laura Moody
Sheriff Lawrence Stelma
Jennifer Strange (via teleconference)
Judge Paul Stutesman
Andrew Verheek
Judge Raymond Voet
Representative Michael Webber

Members Excused:

None

I. Call to Order and Roll Call

The Chair called the meeting to order at 9:00 a.m. The Chair asked the clerk to take the roll. A quorum was present. Senator Johnson arrived at 9:30 a.m. and Senator Colbeck arrived at 11:00 a.m.

II. Approval of the September 2, 2015 CJPC Meeting Minutes

The Chair asked for a motion to approve the September 2, 2015 Criminal Justice Policy Commission meeting minutes.

Mr. Hilson moved, supported by Judge Voet, that the minutes of the September 2, 2015 Criminal Justice Policy Commission meeting as proposed be approved. There was no objection. The motion was approved by unanimous consent.

III. Overview of Lockridge Decision

The Chair called on Commissioner Moody to introduce Michigan Solicitor General Aaron Lindstrom. After some introductory remarks, Mr. Lindstrom provided an overview of the Lockridge decision which dealt with the use of mandatory sentencing guidelines. A question and answer period followed.

IV. Proposed Commission Recommendations

The Chair opened a discussion of each of the proposed recommendations.

Proposed Recommendation #1

It is the recommendation of the Commission that no action be taken pursuant to the changes brought about by the Lockridge decision of the Michigan Supreme Court. It is the recommendation of the Commission that data on sentencing, community placement, and prison entries be tracked to determine changes that may be occurring because of this decision.

The Chair read Recommendation #1 and asked if there was a motion to accept the recommendation as proposed. **Judge Voet moved, supported by Mr. Verheek, to accept the proposed recommendation.** A discussion of the recommendation followed. **Ms. Kubiak moved an amendment, supported by Judge Voet, to insert the word "immediate" between "no" and "action" in the first sentence and to insert "and to develop Commission recommendations as needed to modify the guidelines" after the word "decisions" in the last sentence to read as follows: "It is the recommendation of the Commission that no immediate action be taken pursuant to the changes brought about by the Lockridge decision of the Michigan Supreme Court. It is the recommendation of the Commission that data on sentencing, community placement, and prison entries be tracked to determine changes that may be occurring because of this decision and to develop Commission recommendations as needed to modify the guidelines."** A discussion of the amendment followed. There was no further discussion on the amendment. The motion to accept the amendment prevailed by unanimous consent.

Yeas—15

**Senator Caswell
Ms. Buchanan
Representative Guerra
Mr. Hilson
Mr. Kaminski
Ms. Kubiak
Ms. Levine**

**Ms. Lightner
Ms. Moody
Sheriff Stelma
Ms. Strange
Judge Stutesman
Mr. Verheek
Judge Voet
Representative Webber**

Nays—0

The Chair called for a vote on the recommendation as amended and moved by Judge Voet and supported by Mr. Verheek to read as follows: "It is the recommendation of the Commission that no immediate action be taken pursuant to the changes brought about by the Lockridge decision of the Michigan Supreme Court. It is the recommendation of the Commission that data on sentencing, community placement, and prison entries be tracked to determine changes that may be occurring because of this decision and to develop Commission recommendations as needed to modify the guidelines." There was no further discussion. The motion prevailed by unanimous consent.

Yeas—15

**Senator Caswell
Ms. Buchanan
Representative Guerra
Mr. Hilson
Mr. Kaminski
Ms. Kubiak
Ms. Levine**

**Ms. Lightner
Ms. Moody
Sheriff Stelma
Ms. Strange
Judge Stutesman
Mr. Verheek
Judge Voet
Representative Webber**

Nays—0

Proposed Recommendation #2

It is recommended by the Criminal Justice Policy Commission that sentencing guidelines be kept as the best method for reducing disparity, increasing sentence predictability, while continuing to be transparent. The current guidelines have reduced sentence disparities and increased predictability across the state since their adoption. It is important that the Commission be retained so that continuing research on this issue may be enhanced and presented to the legislature for their discussion.

The Chair read Recommendation #2 and asked for a motion to accept the recommendation. **Judge Stutesman moved, supported by Mr. Stelma, to accept the proposed recommendation.** A discussion of the recommendation followed. **Ms. Levine moved an amendment, supported by Mr. Kaminski, to insert "and promoting proportionality," in the first sentence after the word "predictability,".** There was no further discussion on the amendment. The motion to accept the amendment prevailed by unanimous consent.

Yeas—14

**Senator Caswell
Ms. Buchanan
Representative Guerra
Mr. Hilson
Mr. Kaminski
Ms. Kubiak
Ms. Levine**

**Ms. Lightner
Ms. Moody
Sheriff Stelma
Ms. Strange
Judge Stutesman
Mr. Verheek
Judge Voet**

Nays—0

The Chair called for a vote on the recommendation as amended and moved by Judge Stutesman and supported by Mr. Stelma to read as follows: "It is recommended by the Criminal Justice Policy Commission that sentencing guidelines be kept as the best method for reducing disparity, increasing sentence predictability, and promoting proportionality, while continuing to be transparent. The current guidelines have reduced sentence disparities and increased predictability across the state since their adoption. It is important that the Commission be retained so that continuing research on this issue may be enhanced and presented to the legislature for their discussion." There was no further discussion. The motion prevailed by unanimous consent.

Yeas—14

**Senator Caswell
Ms. Buchanan
Representative Guerra
Mr. Hilson
Mr. Kaminski
Ms. Kubiak
Ms. Levine**

**Ms. Lightner
Ms. Moody
Sheriff Stelma
Ms. Strange
Judge Stutesman
Mr. Verheek
Judge Voet**

Nays—0

Proposed Recommendation #3

The Chair noted that there are two proposed recommendations for the Commission to consider regarding the idea of establishing a subcommittee. A discussion followed and each Commissioner identified their preference between the two options.

3a. It is the recommendation of the Criminal Justice Policy Commission to establish a subcommittee to examine all of the data sources the state currently has as it concerns any aspect of crime to include but not be limited to prisons, jails, probation, parole, community corrections, specialty courts, juvenile justice, courts, prosecuting attorneys, mental health, and substance abuse. The subcommittee will also attempt to identify any areas lacking information that would be needed by the Commission to recommend sound public policy options to the legislature and Governor.

3b. It is the recommendation of the Criminal Justice Policy Commission to establish a subcommittee to examine and analyze the data elements outlined in the governing statute. Data elements included in the statute include use of jails/prisons, sentencing patterns at the local level (including misdemeanors), effectiveness of sentencing guidelines, and recidivism (e.g. re-arrest, returns to prison). Once these elements have been examined, the subcommittee can expand its functions to include the analysis of other aspects of the criminal justice system (e.g. juvenile justice, specialty courts, prosecuting attorneys, mental health, and substance abuse). In the process of examination and analysis the subcommittee will identify any areas lacking information that would be needed by the Commission to recommend sound public policy options to the legislature and Governor.

A discussion followed and each Commissioner identified their preference between the two options. The Chair asked for a motion to consider one of the proposed recommendations. **Mr. Hilson moved, supported by Ms. Moody, to consider proposed recommendation 3b.** A discussion of the recommendation followed. **Ms. Levine moved an amendment, supported by Mr. Hilson, to insert "criminal defense" in the third sentence after "attorneys,".** **There was no further discussion on the amendment. The motion to accept the amendment prevailed by unanimous consent.**

Yeas—14

**Senator Caswell
Ms. Buchanan
Representative Guerra
Mr. Hilson
Mr. Kaminski
Ms. Kubiak
Ms. Levine**

**Ms. Lightner
Ms. Moody
Sheriff Stelma
Ms. Strange
Judge Stutesman
Mr. Verheek
Judge Voet**

Nays—0

The Chair called for a vote on the recommendation as amended and moved by Mr. Hilson and supported by Ms. Moody to read as follows: "It is the recommendation of the Criminal Justice Policy Commission to establish a subcommittee to examine and analyze the data elements outlined in the governing statute. Data elements included in the statute include use of jails/prisons, sentencing patterns at the local level (including misdemeanors), effectiveness of sentencing guidelines, and recidivism (e.g. re-arrest, returns to prison). Once these elements have been examined, the subcommittee can expand its functions to include the analysis of other aspects of the criminal justice system (e.g. juvenile justice, specialty courts, prosecuting attorneys, criminal defense, mental health, and substance abuse). In the process of examination and analysis the subcommittee will identify any areas lacking information that would be needed by the Commission to recommend sound public policy options to the legislature and Governor." **There was no further discussion. The motion prevailed by unanimous consent.**

Yeas—14
Senator Caswell
Ms. Buchanan
Representative Guerra
Mr. Hilson
Mr. Kaminski
Ms. Kubiak
Ms. Levine

Ms. Lightner
Ms. Moody
Sheriff Stelma
Ms. Strange
Judge Stutesman
Mr. Verheek
Judge Voet

Nays—0

The Chair appointed Professor Kubiak, Mr. Hilson, Mr. Verheek, and Mr. Kaminski to serve on the data subcommittee.

V. Council of State Governments Recommendations and Findings

The Chair opened a discussion on the following Council of State Government (CSG) recommendations and findings.

Finding 1:	People with similar criminal histories who are convicted of similar crimes receive significantly different sentences.
Policy Option 1	Structure sanctions in the guidelines to produce more consistent sentences.
Finding 2	After a person is sentenced, it remains unclear how much time they will actually serve.
Policy Option 2	Make the length of time a person will serve in prison more predictable at sentencing.
Finding 3	Supervision resources are not prioritized to reduce recidivism.
Policy Option 3	Use risk of re-offense to inform probation and post-release supervision.
Finding 4	High recidivism rates generate unnecessary costs.
Policy Option 4	Hold people accountable and increase public safety for less cost.
Finding 5	Funds to reduce recidivism are not targeted to maximize the effectiveness of programs and services.
Policy Option 5	Concentrate funding on those programs most likely to reduce recidivism.
Finding 6	Policymakers and practitioners do not have an effective mechanism to track sentencing and corrections outcomes.
Policy Option 6	Monitor changes to the state’s sentencing practices, along with their impact.
Finding 7	Data currently collected do not sufficiently measure victimization or inform the extent to which restitution is collected.
Policy Option 7	Survey levels of statewide victimization and track restitution collection.

He then asked each Commissioner to rank in order the top three CSG recommendations and findings they would like the Commission to tackle first.

Buchanan: 6, 2, 1
 Guerra: 5, 7, 1
 Hilson: 3, 5, 6
 Kaminski: 6, 1, 3 (add parole)
 Kubiak: 6, 1, 5
 Levine: 1, 2, 3

Moody: 4, 5, 7
 Stelma: 5, 6, 1
 Strange: 5, 3, 2
 Stutesman: 6, 5, 1
 Verheek: 6, 3, 1
 Voet: 6, 7, 5

The Chair analyzed that the top three findings the Commissioners prefer to tackle are Findings 6, 5, and 1.

For Finding 6, the Chair suggested a discussion of this finding be delayed until the January meeting to allow the data subcommittee time to do their work and gather more information. The Chair asked Professor Kubiak and Mr. Kaminski to bring something back in January that identifies areas where there is a lack of information, what the problems are, and what needs to be changed so that the Commission can at least inform the Legislature of what the issues are in terms of data.

For Finding 5, in response to a request from the Chair, Mr. Verheek offered his assistance in this area and provided information on recidivism and the issues with the collection of data. Senator Colbeck mentioned that he is aware that there are some third party organizations that conduct assessments and even though the data is from a national level and outside Michigan, it may give the Commission some directional guidance and perspective. The Chair indicated that information on the national level may be helpful and asked Senator Colbeck to have his staff identify specific things the Commission should take a look at. Ms. Levine inquired about the information community correction boards receive and the funds available for programming. A discussion of programs and funding followed. Mr. Stelma commented on the different definitions of recidivism used across the state and the problem this has on identifying what programs are effective.

The Chair announced that he will send out the CSG proposals for Findings 6, 5, and 1. He would like the members to provide feedback which will serve as a basis for a discussion on these proposals.

VI. Commissioners' Comments

There were no Commissioner comments.

VII. Public Comment

There were no public comments.

VIII. Next CJPC Meeting Date

The Chair noted that earlier in the meeting Senator Johnson expressed his concern about his ability to participate in Commission meetings given the Senate session schedule and appealed to the Commission to consider changing the Commission meeting schedule. A discussion followed and it was determined that continuing to meet on the first Wednesday of every month works for the majority of the Commission members. The Chair will contact Senator Johnson to discuss this decision with him. The next CJPC meeting is scheduled for **Wednesday, November 4, 2015, at 9:00 a.m. in the Senate Appropriations Room, 3rd Floor of the State Capitol Building.**

IX. Adjournment

There was no further business. The Chair adjourned the meeting at 11:58 a.m.

(Minutes approved at the November 4, 2015 CJPC meeting.)