

SENTENCING COMMISSION NEWS

April 1996 Issue 3

WELCOME

Welcome to the third edition of the NASC newsletter. The last six months have been both busy and productive. NASC is now incorporated; we have established a dues and membership schedule; we are on the Internet; and plans for our next annual meeting are complete.

These and other developments are summarized later in this newsletter. Also featured are reports from five state sentencing commissions which are actively in the process of developing and recommending sentencing reforms (Michigan, Missouri, Montana, Oklahoma and South Carolina). Lastly, we have included a guest article on restorative justice and sentencing commissions submitted by Tom Quinn who is currently a fellow with the National Institute of Justice.

NASC INCORPORATES

NASC is now formally incorporated as a nonprofit corporation in the State of Delaware. Copies of the articles of incorporation are available from Jane Haggerty (Massachusetts: 508-745-6610, extension 141). The following members were instrumental in this effort: Jane Haggerty (MA), Sandra Shane-DuBow (WI) and Jack O'Connell (DE).

MEMBERSHIP DUES

In its December 1995 meeting, the NASC executive committee established an initial dues structure. The committee established a two-tiered system with the US and state sentencing commissions paying \$100 annually for an organizational membership and individuals paying \$50 for an individual membership. The organizational membership includes two individual memberships. The committee also directed that the annual conference registration fee include a discount for members equal to the cost of an annual membership, thereby providing individuals the option of joining the association directly or indirectly as part of the conference fee. Dues will be used to help defray the cost of the conference, incorporation, and mailings. The amount was set as low as possible to encourage individuals to participate in the Association.

BYLAWS TO BE REVIEWED

Copies of the bylaws are on the Internet (see last page) or can be obtained from Jane Haggerty. The bylaws were adopted at the last meeting in Boston and will be reviewed again at the upcoming meeting in Madison. Please submit suggestions for changes or revisions to the bylaws to Jane.

RESEARCH GRANT AWARDED

As reported in the last newsletter, the Association joined with the National Center for State Courts and the National Conference of State Court Administrators in submitting an application to the National Institute of Justice (NIJ) for funding under the "Research in Action Partnership Program." This grant has recently been approved by the NIJ.

The proposed Research in Action Partnership is designed to serve three purposes:

- 1) identify research issues most important and useful to policymakers;
- 2) summarize available research (including studies conducted by sentencing commissions) in a clear and concise manner directly geared to the needs of sentencing commissions, judges, and state legislators; and
- 3) prepare and disseminate a digest of relevant research by topic area.

The grant and the partnership will be administered by the National Center for State Courts. For more information, contact Rob Lubitz (North Carolina: 919-733-9543) or Brian Ostrom (National Center for State Courts: 804-253-2000).

NEXT NATIONAL MEETING

The third annual meeting of the National Association of Sentencing Commissions will be held in Madison, Wisconsin on July 28-30, 1996. Featured speakers at the meeting include Professors Al Blumstein, Walter Dickey, Kevin Reitz, Michael Smith, and Michael Tonry, as well as judges, commissioners, and staff from sentencing commissions around the country and from the U.S. Sentencing Commission. The conference theme is two-part: a review of the past two decades of structured sentencing and a discussion of the future of sentencing reform. The conference will be of interest to policymakers contemplating sentencing reform, commission members and staff, agency personnel, and researchers.

Conference registration fees until May 1, 1996, are \$50 for NASC members and \$100 for non-NASC members. Late fee charges are applied after the May 1 registration deadline. Membership in NASC is \$50 for an individual and \$100 for institutions. The conference will be held at the Middleton Holiday Inn which will hold a block of single rooms at a \$49 government rate for individuals registering with state or federal identification. Hotel conference rates for non-governmental employees are \$76 single and \$84 double. Contact the hotel directly for reservations: Middleton Holiday Inn, 1313 John Q. Hammons Drive, Middleton, Wisconsin 53562-3500 (telephone 608-831-2000 and fax 608-831-2040).

A business meeting for NASC members will be held at the conclusion of the conference. The agenda for the business meeting includes selection of a program chair for the 1997 NASC conference, election of officers for the 1997 NASC executive committee, and approval of changes to the NASC bylaws. Contact the nominating committee composed of Rob Lubitz (NC),

Deb Daily (MN), and Leslie Powell (AR) with suggestions of individuals to place in nomination for next year's officers (see article on next page).

Optional pre-conference activities include a private group tour of Frank Lloyd Wright's Taliesin in Spring Green, Wisconsin on Saturday, July 27.

Contact Sandra Shane-DuBow, 1996 NASC Program Chair, for additional information. Write c/o U.S. Sentencing Commission, One Columbus Circle, NE, Suite 2-500, Washington, DC 20002-8002, or telephone (202) 273-4500 and ask for Linda Clemons or Sandra Shane-DuBow.

FEDERAL SENTENCING REPORTER FEATURES STATES

The recently published September/October 1995 edition of the Federal Sentencing Reporter includes many articles of interest to state sentencing commissions. The theme of the issue is "Sentencing Reform's Cutting Edge: Views from Across the Country". It includes articles by many current or former directors of sentencing commissions including Phyllis Newton (U.S. Sentencing Commission), Robin Lubitz (North Carolina), John Kramer and Cynthia Kempinen (Pennsylvania), Richard Kern (Virginia), Debra Dailey (Minnesota), David Factor (Oregon), Sandra Shane-DuBow (Wisconsin) and John O'Connell (Delaware). The edition is organized in three parts; 1) Issues of National Cooperation; 2) Expanding Policy Horizons; and 3) Setbacks and Lessons. The guest editor for the edition is Professor Kevin Reitz from the University of Colorado Law School. Kevin has been a leading force behind the creation of NASC.

NOMINATIONS SOUGHT

At the upcoming meeting, we plan to elect members to NASC's executive committee. In accordance with the bylaws, the seven-member executive board is elected from the association's membership. The executive committee, in turn, elects officers from among its members.

All seven executive committee positions will need to be filled at the upcoming national meeting. A Nominating Committee has been appointed consisting of Robin Lubitz (North Carolina: 919-733-9543), Debra Dailey (Minnesota: 612-296-0144) and Leslie Powell (Arkansas: 501-682-5001). If you are interested in serving on the executive committee or would like to recommend someone, please contact a member of the Nominating Committee no later than June 30. A slate of candidates will be prepared from those expressing interest in serving. In order to be nominated, you must be either a current or former member of a sentencing commission (or similar body) or a current or former staff member of a sentencing commission or similar body.

NATIONAL ASSESSMENT OF STRUCTURED SENTENCING

The Bureau of Justice Assistance has released a monograph entitled a "National Assessment of Structured Sentencing." The document was funded by the Bureau of Justice Assistance, U.S. Department of Justice, and was conducted by the National Council on Crime and Delinquency (NCCD), the Pennsylvania Commission on Sentencing (PCS), and the Pennsylvania Commission on Crime and Delinquency (PCCD). The report was written by James Austin (NCCD), Charles Jones (NCCD), John Kramer (PCS) and Phil Renninger (PCCD). The report has seven sections:

1) Introduction (including definitions of structured sentencing), 2) Historical Trends and Issues in Structured Sentencing, 3) An Overview of Current Sentencing Practices in the United States, 4) Sentencing Commission Structures and Their Mandates, 5) Writing Sentencing Guidelines, 6) The Impact of Sentencing Guidelines, and 7) Summary (including findings, policy implications and recommendations). Copies of the monograph may be obtained from the Bureau of Justice Assistance Clearinghouse (800-688-4252).

OTHER DEVELOPMENTS:

Alabama introduces structured sentencing legislation:

Legislation has been introduced in the Alabama legislature to establish a system of structured sentencing. The legislation, loosely modeled after North Carolina's Structured Sentencing Act, provides for honesty and consistency in sentencing. The sentencing judge controls what kind and how long a sentence a defendant receives. Sentences come from a grid which takes into account both the seriousness of the offense and the seriousness of the defendant's prior criminal history. The legislation was developed by Alabama Attorney General Jeff Sessions.

Maryland creates sentencing commission:

In April, legislation was enacted to create the Maryland Commission on Criminal Sentencing Policy. The nineteen member Commission is required to evaluate the state's correctional laws and policies and make recommendations to the Governor and the General Assembly. Among its duties the commission must recommend whether the state should retain descriptive sentencing guidelines; adopt 'guided discretion' sentencing guidelines; retain or eliminate parole, increase the minimum portion of a sentence which must be served, eliminate or alter good time credits, and take action to ensure that there is a coordinated system of correctional options programs. The Commission must submit an interim report before the end of the calendar year and must submit its final report and recommendations by September 30, 1997.

See position announcement later in this newsletter.

Guest Article: THE ROLE OF SENTENCING COMMISSIONS WITH RESTORATIVE JUSTICE

Thomas J. Quinn, Visiting Fellow, National Institute of Justice

When the purposes of sentencing commissions are presented in the literature, typically issues of fairness, equity, and consistency arise; sometimes the more systemic and prescriptive goals of increased retribution, more directed incapacitation for violent offenders, or cost effectiveness are offered. Research, evaluations and other measurements of success are thus oriented around numbers and percentages incarcerated, length of incarceration, and comparison groups of offenders in other geographic or temporal venues.

This is not surprising, since the rhetoric of the day is so disposed, but even a slightly distant review of this situation reveals a glaring omission in policy, practice and research - the victim. It is as if a collective decision was made to measure justice as punishment, with some small dissent to include rehabilitation, but every bit of it offender oriented.

A growing number of observers from inside and outside the criminal justice system are raising their concern over this imbalance, and while it may not yet have reached the stage of a movement, there is enough activity that sentencing commissions would do well to anticipate the future and attempt to blend a victim focus into their agenda.

Generally referred to as "restorative justice," this philosophy puts the victim and community at the center. The primary concern is to right the wrong, using the offender as a vehicle where possible; true involvement of the victim in the process - more than the allocution opportunity now sometimes extended to the victim.

Sentencing commissions can take five steps to improve focus on the victim:

1. Involve victims as commission members and in discussions. Involvement is key to understanding the perspective and acknowledging the legitimacy of their role.
2. Include a goal of restoring the victim for the commission - if it is not, why should anyone expect victim restoration to be an aim of the criminal justice process?
3. Train and orient staff and the public to this responsibility. Training is paramount to many technical matters concerning calculation of guidelines, completing of forms and impacts of commission rules; shouldn't the effect on the primary victim be a centerpiece of concern rather than an afterthought, or worse, ignored?
4. Insure policies and procedures are in place to allow victim involvement and restoration. The most obvious example is restitution. One of the most oft cited conditions of probation, few jurisdictions have in place any semblance of a professional system to identify, collect, track, and disburse restitution. The methods are available through the private sector if not other public agencies.
5. Measure success by identifying how victims and communities are restored, using measures such as restitution collected; community service hours; percentage of victims given the opportunity for a face-to-face dialogue with their offender to sit on an impact panel; and results of surveys. If we spend all our time collecting data on how we affect offenders, it sends a message that we don't care about the effect on victims.

As confounding as it already is to try to sort out commission responsibilities, broadening the role to include restorative justice may very well be a welcome diversion from the "how tough can we get" debate, and can create new allies for some beleaguered commissions. Victim advocates are a growing force on the justice scene and having them side-by-side with sentencing commissions is much preferable to having them head-to-head. In any case, as we strive toward the elusive goal of a fair and balanced justice delivery system, this is the right thing to do.

This was supported by federal grant 95-IJ-CX-0016. The views of the author do not necessarily represent the official views of the U. S. Department of Justice.

NEWS FROM THE STATES

In this section we feature five states which have created sentencing commissions in the past few years and are moving forward with the development of sentencing recommendations.

MONTANA

The 55th Montana Legislature created the Montana Sentencing Commission. The Commission's existence began on March 31, 1995, and will terminate May 31, 1997, unless extended by the 56th Legislature. The Commission presently intends to recommend that the Legislature extend the life of the Commission at least through the next biennium, and most likely will recommend it become a permanent Commission.

The enabling legislation for the Commission is broad and gives the Commission the authority to choose its own destiny. When the next Legislature convenes in January 1997, however, the Commission must make a recommendation to the Legislature whether sentencing guidelines are advisable in Montana. If the Commission answers that question affirmatively, it is also charged with the task of drafting the sentencing guidelines for the 56th Legislature's approval.

Since time is precious and the expectations of the Montana Sentencing Commission are great (i.e., solve the prison overcrowding problem, the budgetary problems facing the State and the criminal justice system, and regain the public's trust by January 1997), at its October 16, 1995, meeting, the Commission adopted a detailed work plan. The work plan divides the Commission into six subcommittees which are : Subcommittee on Administrative Matters, Subcommittee on Data Collection, Subcommittee on Intermediate Sanctions, Subcommittee on Public Policy, Subcommittee on Sentencing Guidelines, and Subcommittee on Public Opinion, Education, and Outreach. Each subcommittee has defined tasks and timelines. Thus far, each subcommittee has reasonably complied with the timelines.

The Commission received a grant from the Montana Board of Crime Control which covers 70% of the costs of completing a public opinion telephone survey of 800 Montana households and a data collection project which will enable the Commission to evaluate data from approximately 1500 criminal dispositions occurring in 1994. The public opinion telephone survey was completed the first week of March. The Commission is awaiting the final report summarizing the results of the survey. The Data Collection project is also underway, and the independent contractor responsible for collecting the data is scheduled to have the data collection project completed by the beginning of June 1996.

The Sentencing Guidelines Subcommittee is drafting sentencing guidelines. The Subcommittee has already made many difficult policy decisions. The Subcommittee has chosen a rationale of modified just deserts. It has developed a set of guiding principles, completed two drafts of crime seriousness rankings, and began the decision making process regarding criminal history scores. The next full Commission meeting is scheduled for May 9, 1996. The Sentencing Guidelines Subcommittee will present a completed first draft of sentencing guidelines for the full Commission's review and input.

On June 25, 1996, the Commission will hold its final meeting for this fiscal year. It will be an event since the Commission will make the threshold decision of whether sentencing guidelines are appropriate for Montana. Stay tuned...

Submitted by: Tammy Plubell, Administrative Officer, Montana Sentencing Commission

MICHIGAN

Since the early 1970's our nation's approach to the treatment of convicted felons has undergone considerable changes in the area of sentencing. A good portion of this change has been the result of criticisms of excessive disparity in sentencing, either real or perceived. Still others are the result of the public's shift away from the rehabilitative ideal toward one that focuses on punishment and the allocation of limited resources. In such a climate, it should come as no surprise that sentencing structures overall and those incorporating indeterminate sentencing in particular, have come under fierce attack. Michigan has not been spared these criticisms. In Michigan, convicted felons are sentenced under an indeterminate sentencing structure. That is to say that the judge sets the minimum sentence, and the legislature sets the maximum in the statute for a particular offense. Usually, an inmate becomes eligible for parole upon the completion of his or her minimum sentence minus any good time or disciplinary credits earned while incarcerated.

Unlike determinate sentencing structures in which the judge generally sets the length of the sentence, indeterminate sentencing makes it difficult to calculate the exact period of incarceration at the time of the sentencing. In recent years, opponents of this system have blamed indeterminate sentencing for being a major contributing force behind unequal, unfair and even racially motivated sentencing. Furthermore, critics argue that nonelected administrative agencies, usually parole boards, decide the actual length of the prison term and not the judge, whom they argue would be better able to decide the appropriate length of imprisonment. The debate is fueled further by those that believe that we are facing a prison population crisis unparalleled in modern times.

In those jurisdictions using indeterminate sentencing, "Truth-in-Sentencing" and "Three Strikes" legislation are gaining popularity as a means to bring about some accountability and certainty to criminal sentences. Many jurisdictions have been forced to reexamine their systems of dealing with convicted criminals in the face of such public sentiment. Approximately 19 states, including Michigan, have either developed legislative guidelines or are currently working to develop them.

In 1979, driven by concerns of disparity and unequal justice, the Michigan Supreme Court appointed an Advisory Committee consisting of a broad spectrum of criminal justice professionals with the specific purpose of designing a sentencing guidelines system. Over the next decade, the guidelines progressed through a number of phases including design, testing, review and revision. In 1983, the guidelines were distributed on a voluntary basis for use by Circuit and Recorder's Court judges. The next year, the Supreme Court mandated the use of the guidelines on a state-wide basis and began to collect data which was used to test the validity and effectiveness of the guidelines.

Since 1984, Michigan has operated with a system of judicially-imposed guidelines. A revised edition of these guidelines has been in effect since October 1, 1988, under the Supreme Court Administrative Order 1988-4. The current guidelines were specifically designed to reduce disparity by codifying existing sentencing practices of judges across Michigan. They were developed after extensive research designed to capture the "average" sentence for similar offenses and offenders. Issues such as prison capacity and the impact of the guidelines on state and local resources were intentionally ignored. The drafters of the current system agreed, and perhaps correctly, that these matters were better left to the legislators.

During this same period, a battle to enact legislative guidelines was waging. Several bills were introduced that called for an independent commission to develop a systematic approach to structured sentencing. Each time, the legislation was stalled by extensive debate over the issue of whether sentencing policy should be tied to prison capacity. Finally, in late 1994, a critical compromise was reached and shortly thereafter PA 445 became law. Unlike previous versions, the statute did not link guidelines to prison capacity. However, the issue of prison capacity is to be "considered" by the Commission as the new guidelines are developed. The Act amends the Code of Criminal Procedure, in part, by creating a nineteen member Commission to develop and recommend Sentencing Guidelines which will become mandatory upon enactment into law. Once enacted, they will take the place of the judicially imposed guidelines now in effect and will apply to all crimes committed on or after the effective date of enactment. The new guidelines will not affect Michigan's indeterminate sentencing structure. However, a provision in the statute mandates that upon enactment of these new guidelines, the recently adopted "truth-in-sentencing" statutes will take immediate effect. This package of law requires defendants convicted of certain enumerated crimes to serve their full minimum sentences, as established by the guidelines, before they are eligible for disciplinary credits or good time.

The new guidelines will not merely be a modification of the current guidelines, although there will be some similarities. The new guidelines will employ a grid system to establish minimum sentence ranges calculated by scoring the appropriate offense variables in conjunction with variables based on the prior record of the offender. The judge at sentencing will continue to set the maximum within the limits of the law. Under the guidelines being developed by the Commission, the statute requires that all felonies and some two year misdemeanors be included. The sheer numbers of these offenses requires a different approach to how the guidelines are developed. In addition, the Commission is required by law to consider "the likelihood that the capacity of state and local correctional facilities will be exceeded" and to forecast the impact of the recommended guidelines on correctional resources as part of their report to the Legislature.

Among some of the other responsibilities of the Commission, the statute requires the members to establish criteria for judicial departures, recommend the use of "intermediate sanctions" for certain sentence ranges, and provide separate ranges for habitual offenders. The statute also adds to the list of specifically allowed conditions of probation and requires presentence investigation reports to include specific guidelines-related information. Under the statutes, a court may depart from the legislative guidelines if a "substantial and compelling" reason to do so is stated on the record. The Commission has determined that it will not develop a laundry list of "acceptable" or "unacceptable" reasons to depart, although the statute is clear that factors such as gender, race, ethnicity, alienage or national origin may not be considered. Other factors such as the type or

lack of employment, whether representation is by appointed or retained counsel, and religion are specifically disallowed by the act.

Unlike the current, judicially imposed guidelines, the Commission must develop guidelines for all felonies and some misdemeanors. Surprisingly, a complete list of these offenses has never been compiled and in doing so, the members soon began to get an appreciation for the number of offenses which are to be included. To date, the list includes over 600 crimes, and as lesser known offenses are added and new ones are enacted, the list continues to grow. Since no system of crime classification had ever been formally adopted in Michigan, the Commission was faced with the challenge of trying to make some sense of the list. The decision was made to group the crimes into six categories based generally on the type of harm created by the offenses. These categories include crimes against persons, property, public order, public safety, public trust and crimes involving controlled substances. Next, the crimes were grouped into categories according to criteria agreed upon by the Commission, the least of which was the statutory maximum. The members did not want to be limited solely by the statutory maximum, but were cognizant of the limitations that the statutory maximums posed. Perhaps the most important criteria used to sort the offenses into the appropriate category was the legislative directive that "offenses involving violence against a person shall be considered more severe than other offenses". Other factors that the members considered important were the requirements that the Commission develop sentencing ranges that are within the minimum and maximum sentences allowed by law (including mandatory minimum sentences) and that the recommendation include circumstances under which a prison term may or may not be appropriate.

Therefore, crime classification designations were not based solely on statutory maximums. However, with very few exceptions, crimes were not placed into classifications which would allow for sentences that exceed the legal maximum. Using the categories listed below, for example, a crime having a statutory maximum of 10 years could be placed in any category that the Commission deemed appropriate except for categories A, B and C.

This allows for flexibility in recommending appropriate minimum guideline ranges, while maintaining the possibility for sentences of up to and including the statutory maximum. The result was the classification of all offenses into one of the following categories*:

Category A: Crimes for which a minimum sentence range of up to and including life would be appropriate.

Category B: Crimes for which a minimum sentence of up to and including 20 years would be appropriate.

Category C: Crimes for which a minimum sentence of up to and including 15 years would be appropriate.

Category D: Crimes for which a minimum sentence of up to and including 10 years would be appropriate.

Category E: Crimes for which a minimum sentence of up to and including 5 years would be appropriate.

Category F: Crimes for which a minimum sentence of up to and including 4 years would be appropriate.

Category G: Crimes for which a minimum sentence of up to and including 3 years would be appropriate.

Category H: Crimes for which a minimum sentence including intermediate sanctions** would be appropriate.

Category I: Crimes for which minimum sentence of only intermediate sanctions** would be appropriate.

* Offenses for which there is no judicial sentencing discretion - i.e., First Degree Murder, Felony Firearm, Mandatory Drug Offenses, etc. are not included, as there will be no guidelines developed for these offenses.

** Intermediate sanctions may include jail and other alternatives to prison.

The Commission is now exploring different options that are available with regard to the actual structure of the grids. An initial proposal has been made to develop a single grid for each crime group, and several of the committees are exploring the feasibility of such a recommendation. The results of the committees' work will be presented to the members for their consideration at the next Commission meeting.

In summary, the members of the Commission have been working diligently to develop and recommend a system of guidelines that will be a clear and rational declaration of public policy on the issues of crime and punishment. These guidelines, rather than passively accepting a working average of prior judicial practice, will be a rational and comprehensive approach to sentencing. The members are dedicated to the ideal that justice can be served by removing bias from the decision making process and devising a system that reserves the state's finite correctional resources for those criminals that are truly deserving. As one member on the panel suggests, it is time that we begin to make a distinction between those criminals that we are simply mad at and those that we, as a society, should fear.

While it is never an easy task to reach a consensus between nineteen individuals representing such a wide range of interests, the levels of enthusiasm and dedication exhibited by the members is admirable. Each member on the Commission brings valuable insight and experience to the table and each member understands the important responsibility that the Commission has been given. The full Commission meets at least once per month in Lansing, and the various subcommittees meet more frequently to explore and investigate issues for consideration by the Commission. As the July 15th deadline quickly approaches, the Commission will be increasing the number of monthly meetings and has scheduled hearings around Michigan to ensure that public comment is heard.

Submitted by Carlo P. Ginotti, Counsel/Administrator, Michigan State Sentencing Guidelines Commission

OKLAHOMA

Current status of work. The Oklahoma Truth in Sentencing Policy Advisory Commission, established in 1994 to develop sentencing guidelines and alternative sentencing options, has to this point agreed to the following regarding sentencing and community corrections.

Sentencing reform. The Commission proposes "truth in sentencing," requiring a convicted offender to serve 85% of a sentence received, with the remaining 15% under jurisdiction of the State Pardon & Parole Board and/or the earned credit system of the State Department of Corrections. The Commission proposes structured sentencing matrices to provide for predictability and uniformity in sentencing. These matrices feature ranges of punishment based on the nature and circumstances of the offense and the prior record of the offender. The Commission also proposes progressive sanctions in sentencing, emphasizing probation and community for nonviolent offenders and incapacitation of repeat and/or violent offenders.

The Commission proposes the creation of uniform sentencing procedures and data collection. It's work also improves sentencing authority and options available to a sentencing court, including elimination of jury sentencing in non-capital cases, allowing a court to condition the sentence upon payment of restitution or engagement in treatment or other rehabilitation, creating a term of post-release supervision as part of sentences to incarceration to permit supervision and reintegration of post-imprisonment offenders.

Community corrections. The Commission proposes two levels of community corrections- preadjudication services and traditional community programming. For the former, the Commission proposes facilitation of appropriate placement of offenders in the community or treatment based on better information about treatment options and the offender's amenability to treatment. This will include substance abuse testing, assessment, and evaluation; amendment of bail statutes as a condition of release to a treatment program; and authorization of counties to create preadjudication service agencies to oversee administration of pretrial services.

For the latter, the Commission proposes creation of community action boards of citizens and local criminal justice professionals to identify and recruit local community involvement to sponsor and promote community sentencing options. This will increase availability of sentencing options for a local court to allow better conditioning of the sentence to the offender and the community. This will also establish a link between state and local criminal justice professionals and the local community.

Prospects for the future. The Commission will present its final legislative proposals to the Oklahoma State Legislature for consideration and approval by the middle of April. It may propose an initial two-year period before final adoption of the guidelines to allow collection and evaluation of data regarding offenses to ensure proper correlation between guidelines and compliance with them by practitioners. Legislative decision is expected by the adjournment of the legislature the end of May.

Submitted by Paul O'Connell, Jr., Executive Director, Oklahoma Truth in Sentencing Commission

MARYLAND COMMISSION SEEKING STAFF DIRECTOR

Maryland has just created a Commission on Criminal Sentencing Policy to revise the state's sentencing structure. The Governor's Office is seeking experienced applicants for the position of staff director. Applicants must have a background in sentencing and correctional policy, be familiar with statistical data, and have experience or extensive knowledge of state sentencing reforms. Commission work begins by June 14; final report date is Sept. 30, 1997. Interested persons should call Adam Gelb in the office of Lieutenant Governor Kathleen Kennedy Townsend at 410-974-2804 no later than May 10, 1996.

MISSOURI

The Missouri Legislature substantially revised the Sentencing Commission as the Sentencing Advisory Commission through amendments to Sec. 558.019 of the Revised Statutes of Missouri. The size and make-up of the Commission were expanded to consist of eleven members. Under the new statute, the Governor appoints six members that must include a public defender commissioner, a prosecutor, a member of the Board of Probation and Parole, a private member of the Missouri Bar, and a private citizen. The Speaker of the House and the President Pro Tem of the Senate each appoints one member. The Supreme Court appoints both a metropolitan and a rural member. The Director of the Department of Corrections is now a member.

The first commission was charged with studying sentencing practices throughout the state and analyzing sentencing disparity, especially in relation to the death penalty. The new commission is charged with establishing a system of recommended sentences for felony offenses reflecting several factors. These factors include the nature and severity of the crime, prior criminal history, and resources of the Department of Corrections. Under the current statute, the guidelines are advisory, not mandatory in nature. The Commission is also charged with monitoring compliance and reporting back to the Governor, the House of Representatives, and the Senate by July 1, 1998.

The Commission began its work on the voluntary guidelines in January of 1995. Professor Al Blumstein has served as a resource, presenting data regarding crime rates, prison use, and sentencing policy. The commission has also drawn heavily from the Department of Correction's Planning Research and Evaluation unit, utilizing material about current inmate population and statistics regarding drug offenders. Other resources used for feedback have been the annual judge's conference and the Edna McConnell Clark Foundation. Commission members reviewed sentencing guidelines from other states. A survey regarding the format of the guidelines was sent to a group of presiding judges, prosecutors, defense attorneys, public defenders and members of citizen groups.

The Commission has drafted its guidelines, choosing a grid format which lists specific crimes on the vertical axis and prior criminal history levels on the horizontal axis. A limited number of crimes were chosen to be separately listed within each classification level to reflect offenses

targeted statutorily for 85% mandatory time served and other offenses that merit individual consideration. All other crimes not listed are combined into an "all other" category for each classification level, A through D felonies. Drug offenses are listed on a separate grid by classification level, A through D. The grids contain four levels of prior criminal history based upon a combination of prior findings of guilt and prior terms of incarceration. It was also decided that each cell on the grid would contain an aggravated, a presumptive, and a mitigated range. Each cell will indicate if any alternative programs might be appropriate and the Commission encourages their use as alternative sanctions.

The most significant task, and the one on which the Commission is still working, is to make final decisions regarding the lengths of the sentencing ranges. The impact of the guidelines, assuming full compliance, is analyzed with each new draft. This is consistent with the Commission's charge to consider the resources of the Department of Corrections. It is expected that the grids will be completed by the end of the legislative session in May.

Following the completion of the guidelines, training on the use of the guidelines will begin. The Commission will utilize annual judges' conferences, and a sentencing seminar held at the St. Louis University School of Law, that has been funded by the Edna McConnell Clark Foundation. The Commission will also commence its monitoring of the use of the guidelines by sentencing judges throughout the state.

Submitted by Tracy Knutson, Executive Director, Missouri Sentencing Advisory Commission

SOUTH CAROLINA

South Carolina was one of the first three states to consider sentencing guidelines and has been involved in the process for over ten years. Even though past guidelines proposals have been unsuccessful, the Commission's recommendations have passed through other crime-related legislation. Many of the first commission's recommendations were incorporated into the Omnibus Crime Bill of 1987 and years later in 1993, another commission recommended a complete revision of the criminal code. Over 750 crimes were classified based on the severity of the offenses into appropriate felony and misdemeanor classes. The new crime classification passed and took effect January 1, 1994.

That same year, the concept of truth-in-sentencing was first introduced in South Carolina by Speaker of the House, David H. Wilkins. Wilkins, who also serves as the Commission's chairman, believed that the public deserved the right to know the minimum amount of time that an offender would be incarcerated. Current law made such a calculation impossible for anyone other than Department of Corrections' computers. The widespread enthusiasm and support for truth-in-sentencing renewed interest in sentencing guidelines. Legislators worried that requiring offenders to serve at least 85% of their sentences under truth-in-sentencing proposals would create a massive increase in the prison population without sentencing guidelines. Under the current system, judges know that offenders serve an average of one-fourth of the sentence and one-third if they are convicted of a violent offense. If judges continued the practice of tripling or quadrupling their sentences under truth-in-sentencing, the result would be a prison population explosion.

The Commission is currently under funded and understaffed but with the assistance of a special grant from the Edna McConnell Clark Foundation, the Commission has had the benefit of the statistical analysis services of John P. O'Connell, Director of the Delaware Statistical Analysis Center. O'Connell has developed the South Carolina Sentencing Simulation Model for use in grid development and impact analysis and has produced 13 different grid scenarios to date. The Commission plans to introduce sentencing guidelines legislation to complement truth-in-sentencing in January of 1997. In brief, the goals we hope to achieve with sentencing guidelines are as follows:

- (1) Restore confidence in the criminal justice system through truth-in-sentencing and reduction of the disparity in sentencing.
- (2) Ensure greater public safety by increasing the average prison time served of violent offenders.
- (3) Encourage the use of effective intermediate sanctions for certain nonviolent offenders.
- (4) Use of sentencing guidelines as a management tool to predict and plan for prison as well as probation/intermediate sanctions growth.

Special thanks to all the people involved in sentencing reform in other states whose assistance has been and continues to be invaluable to us.

Submitted by: Ashley Harwell-Beach, Director, South Carolina Sentencing Guidelines Commission

NASC ON THE INTERNET

NASC is now on the Internet under the home page of the United States Sentencing Commission. The Internet address is <http://www.ussc.gov>. Once you reach this site, jump to the listing for State Sentencing Commissions. This is a significant step in the development of NASC that would not have been possible without the support and assistance of Phyllis Newton and the United States Sentencing Commission.

Currently, this site includes the text of the NASC bylaws and both previous newsletters. For each state with a sentencing commission, we would like to create a separate folder on the Internet which includes a commission summary and relevant documents of interest to other commissions. The overview should include a short description of the history and work of the Commission and an outline of the sentencing guidelines or other sentencing policy. This section should also specify when the Commission was created and should name a contact person (include the telephone number, fax number, and e-mail address if available). Commissions are also encouraged to forward other documents of interest such as published reports, manuals, and articles.

The creation of this Internet site is the first step towards reaching the Association's goal of establishing an easily

accessible and up-to-date central repository of information on sentencing commissions, sentencing guidelines, and other sentencing reforms. This goal can only be achieved with the full help and cooperation of each individual state sentencing commission. NASC members can submit information to be placed on the Internet by several means:

1. If the information is now on an Internet web site or you have a FTP server on-line, the information can be transferred electronically. Simply provide the U.S. Sentencing Commission with the electronic address and a list of the files you want to transfer.
2. If the information is now on diskette or is downloadable to diskette (IBM format only), it can be mailed to the U.S. Sentencing Commission. Be sure to provide a list of the files you want added to the Internet and send the diskette to:

State Sentencing Commissions on Internet

C/O U.S. Sentencing Commission
Thurgood Marshall Judiciary Building
One Columbus Circle, N.E., Suite 2-500
Washington, DC 20002-8002