

SENTENCING COMMISSION NEWS

December 1997: ISSUE 6

**THE 1998 NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS ANNUAL
CONFERENCE**

**CROWNE PLAZA NORTHSTAR HOTEL
MINNEAPOLIS, MINNESOTA**

JULY 19-21, 1998

The 1998 NASC Annual Conference will be held July 19-21, 1998, in downtown Minneapolis, Minnesota at the Crowne Plaza Northstar Hotel. Please mark your calendars.

The fifth annual NASC Conference will be held in Minneapolis, birthplace of sentencing guidelines. The conference is an excellent and unique opportunity to share ideas, concerns, and experiences with people from around the country who have similar interests in sentencing policy.

This year's conference also provides the opportunity to visit Minnesota, "Land of a Thousand Lakes," during the most beautiful season of the year. Minneapolis is also the home of the Mall of America, the Minnesota Twins, and the unique Aquatennial celebration.

More information on the content of the program will be sent soon to those on the NASC mailing list. If you think you are not already on the NASC mailing list, please contact: Deb Dailey at (612) 296-0727 or by E-mail at deb.dailey@state.mn.us.

Conference room rate: \$85.00 (single/double)
Conference registration and NASC membership: \$160.00

NASC ON THE INTERNET

The NASC has an active Internet site. The NASC's Web site is included under the home page of the United States Sentencing Commission. The Internet address is:

<http://www.ussc.gov>

The NASC information is found under the "State Sentencing Commissions" folder. Included are copies of the NASC newsletters (including previous editions), copies of the NASC bylaws, and other items of interest.

NASC continues to solicit information from the states to add to the site. For more details and submission instructions, please contact the United States Sentencing Commission webmaster at 202-273-4604.

FEATURED STATE: DELAWARE

Ten Year Anniversary of Sentencing Guidelines in Delaware

In 1987, Delaware became the first state to implement a "fully integrated" sentencing guidelines system covering sentencing not only for felony courts, but also, misdemeanor courts (excluding most Title 21 traffic offenses). Delaware's structure sentencing system covers sentencing for felony as well as misdemeanor courts and is inclusive of all levels of sentencing from life, prison and jail to four levels of alternatives to incarceration.

The sentencing guidelines are also comprehensive in the sense that, within guidelines, a judge can sentence at all levels of punishment, including death, life without the hope of release, prison, jail, and four levels of alternative sentencing.

Prior to sentencing guidelines, a judge could sentence up to the maximum term allowed by statute. The choices for sentencing during this time were limited to incarceration or probation where the probation surveillance was incorporated into caseloads of well over 100 per probation officer. In some cases, a suspended prison sentence was "split" between a reduced term of incarceration and probation time. Not only was there significant variation of sentences for similar crimes under this sentencing process, but there was also a growing frustration related to the lack of surveillance and rehabilitation offered to probationers. Confidence in prison sentences had also eroded with the greatest concern caused by uncertainty about what percentage of a prison sentence might be served. A complex set of good time and parole procedures has resulted in some of the most violent offenders serving as little as 20 to 35 percent of their prison sentence while nonviolent offenders with shorter term sentences served over 90 percent.

Within the Delaware sentencing guidelines, judges can select

one or a descending series of five "levels" of punishment. It is not uncommon today to see a sentence structured with part of it being incarceration (Level V) "to be followed" by a short period at a Level IV, followed by another period at Level III intensive supervision. At each step of the "flow down" process violations or meritorious behavior can be considered by the judge as grounds for sentencing modification.

Although there was strong support for the new classification of alternative punishments, there was an early concern regarding whether or not the resources would be made available to the Department of Corrections for the implementation of viable Level IV (quasi-incarceration) and Level III (intensive supervision with the objective of caseloads of 25 per officer) programs. There has been a slow but steady progress in the implementation of Level IV programs such as electronic monitoring and halfway houses, day reporting and other Level III programs. Until recently, limited Level IV and III resources created extensive and complex backlogs. Many offenders were sentenced to Levels III and IV, but were actually "held at Level V pending available space" in these programs. With recent increase in resources for these programs the volume of these backlogs has decreased, except in the area of residential drug treatment resources which still remains a significant issue.

The wide use of "flow down" sentences testifies to the efforts of the Department of Correction (DOC) to meet the needs of sentencing judges' desire for meaningful punishment linked to intense surveillance upon release from incarceration. DOC and the statewide Drug Court have also increased the surveillance activity related to judicial special conditions ensuring compliance with work, school, counseling, drug rehabilitation, clean urine, protection orders, and curfews.

From one perspective there has been frustration related to the limited Levels IV and III resources, but on the other hand the growth of viable non-incarceration programs has created a new

issue.

Improved community surveillance has significantly increased the number of probation violators returning to jail or prison. SENTAC Commissioners had fully expected and desired an increase in probation violations with the implementation of flow-down sentencing. That is, after being sentenced, it was anticipated that before final completion of a sentence some offenders, due to DOC-Probation's tough enforcement of intermediate sanctions, could find themselves back in jail -- if need be on more than one occasion. This "recycling" of an offender back through Level V is seen as evidence of system creditability. However, no one presumes to have projected the extent of the current volume of violations, making it today, the leading cause of increased incarceration admissions.

Besides the programmatic issues related to SENTAC "~~flow-down" sentencing, an associated issue that~~ was not fully appreciated until recently is Delaware's inability to track and account for the increased volume of offender movement through the additional levels of punishment. It takes a significant amount of human resource from the courts, the Department of Corrections, the Statistical Analysis Center, and others to keep abreast of various offender movements. We are having a difficult time with timely and complete reporting. The data processing issue has become even more difficult as we see more offenders with multiple active sentencing orders. It is not uncommon for a single offender to have ten or more active legal statuses from different levels of courts from different jurisdictions each requiring separate and often conflicting legal status -- e.g. detention, jail, Level IV, Level III (intensive probation), Level II (probation) in a less than logical sequence.

In part, the information problem is due to inadequate data processing systems. Just as important, however, is the confusion surrounding the administrative nightmare of how to merge or join each of the existing orders with new sentencing orders. DOC is working with all facets of the criminal justice systems to develop a data processing system capable of handling the complexity of record keeping under SENTAC. Yet, no matter how sophisticated this computer and data entry system might be, its operations will be frustrated by the need to know how to prioritize and structure the increasing number of multiple consecutive and/or concurrent sentences.

On December 7 and 8, 1997, the Delaware Sentencing Accountability Commission (SENTAC) will hold a retreat where the SENTAC Commissioners will review the changes in the criminal justice system related to the implementation of structured sentencing in 1987 and Truth in Sentencing in 1990. The goals and objectives of the Commission as they have developed over the past decade will be revisited using Commission input, Delaware Statistical Analysis Center analysis, and feedback from national experts. This assessment process will be used to determine which topics need more analysis, need to be updated, or need to be introduced as new

initiatives.

Other topics being examined include the relationship between structured sentencing and mandatory sentences, restructuring the levels of alternative sentencing, the impact of guidelines for probation violations, the initiation of a statewide drug court, consideration of proposed legislation relating to sexual offenders, and the adequacy of current criminal justice information systems.

This retreat is being staffed by the Delaware Criminal Justice Council.

By Judge Richard Gebelein, Chairman SENTAC, and Jack O'Connell, Director, DeISAC

NEWS FROM THE STATES

ALASKA

For information, contact:

Teri Carns, Alaska Judicial Council, 1029 W. 3rd Ave., Ste. 201, Anchorage, AK 99501; phone (907)279-2526, or e-mail, teri@ajc.state.ak.us

FLORIDA

For information, contact:

John N. Hogenmuller, Office of the State Courts Administrator, Florida Supreme Court Building.

KANSAS

Kansas Sentencing Commission Update

The Governor appointed the Honorable Richard B. Walker chairperson of the Sentencing Commission in June of 1997. The Commission also elected a new Vice Chair, Paul Morrison, District Attorney from Johnson County. In addition, the legislature approved three additional staff positions, increasing the total number of staff positions to twelve.

During FY 97, the Kansas Sentencing Commission continued to work very closely with the legislature in drafting criminal legislation and providing prison bed impacts for each bill introduced during the 1997 session. With current prison

population in excess of 97%, every piece of legislation introduced was subject to extensive examination with regard to the number of prison beds that would be required if the bill were enacted into law. As the result of this close working relationship between the Legislature and the Commission, only one piece of legislation was passed into law that impacted future prison bed space needs for the state.

A Select Committee of the House was formed during the legislative session to examine correctional issues and explore alternatives to incarceration. This committee was expanded by legislation into the Joint Committee on Corrections and Juvenile Justice at the end of the session. The Joint Committee authorized the funding for the development of a Ten Year Master Plan for corrections that focused on the most effective use of current correctional resources and recommended offender groups that would be suitable for non-incarceration punishment options. Among the recommendations presented were the development of a continuum of graduated intermediate sanctions to be implemented statewide for low level drug, property offenders and conditional parole and probation violators. The Sentencing Commission also held a symposium on Intermediate Sanctions to discuss possible options to modify the current sentencing structure to include intermediate sanctions. Recommendations will be presented to the legislature during the 1998 legislative session.

In early 1997, the Sentencing Commission completed and submitted to the legislature and the newly formed Juvenile Justice Authority, an extensive study profiling juveniles currently sentenced to state juvenile correctional facilities. In addition, an initial set of ten year projections was completed for state juvenile correctional facilities. The Commission is currently in the process of designing a new sentencing journal entry for the Extended Juvenile Jurisdiction provision of the Juvenile Justice Reform Act that will become effective in January 1998.

*Barbara Tombs, Executive Director
Kansas Sentencing Commission
700 SW Jackson Street, Suite 501
Topeka, KS 66603
Phone: (785) 296-0923
Fax: (785) 296-0927
E-mail: btombs@ink.org*

MASSACHUSETTS

Massachusetts Sentencing Commission.

Legislation. Legislation required to formally enact proposed sentencing guidelines was filed in both the Massachusetts House and Senate on December 4, 1996. The Senate version (Senate 135) exactly mirrors the recommendations of the sentencing commission. The House version (House 2634) substantially

mirrors the recommendations of the commission with additional language regarding intermediate sanctions. Both bills are currently pending with the Joint Committee on Criminal Justice.

At legislative hearings held in June 1997, broad-based support was expressed for the approach to sentencing guidelines taken by the Massachusetts Sentencing Commission. There was particularly strong support for the further development of intermediate sanctions. Under the proposed guidelines, intermediate sanctions are fully integrated into the sentencing grid, providing judges with a framework for the use of these newly developing sentencing options.

Many members of the judiciary expressed support for the proposed sentencing guidelines during the legislative hearings. Members of judiciary responded favorably to the retention of reasonable judicial discretion, and the ability to depart below the mandatory minimum sentence requirements for certain drug offenses. Prosecutors expressed a number of concerns with the proposed guidelines: the sentencing ranges, the ability of judges to depart below mandatory minimum sentences for drug offenses, and the types of offenders eligible for intermediate sanctions. Members of the defense bar also expressed reservations about the sentencing ranges and noted that the commission did not go far enough in allowing judges to depart below mandatory minimum sentences.

Following legislative hearings in June, the sentencing guidelines were referred for study. Commission staff has been working with the legislative study group on evaluating the impact on court operations and correctional population of various modifications to the original legislation. Most of the proposed changes tend to increase the impact of proposed guidelines - e.g. increasing offense seriousness levels for certain crimes, increasing sentencing ranges in certain grid cells, or reducing the threshold to place a defendant into a higher criminal history group.

A final vote on guidelines legislation is expected after the legislature reconvenes in January 1998.

*Francis J. Carney, Jr.
Executive Director
Massachusetts Sentencing Commission
Saltonstall Office Building, Room 902
100 Cambridge Street
Boston, MA 02202
617-742-6867
617-973-4562
Send to attention of: HOLTTLK@AOL.COM*

MICHIGAN

Michigan Sentencing Commission

For information, contact:

*Carlo P. Ginotti, Attorney/Administrator
Michigan Sentencing Commission
P O Box 3006, Lansing, MI 48909-7536.
Phone: (517) 373-7676
Fax: (517) 373-7668
E-mail: Cginotti@lsb.state.mi.us*

MINNESOTA

Minnesota Sentencing Guidelines Commission

The Minnesota Sentencing Guidelines Commission has focused its attention on the issue of plea agreements that involve departures from the presumptive sentence under the guidelines. The sentencing guidelines strive to achieve more uniform and proportional sentences statewide by recommending a presumptive sentence based on the combination of the severity of the conviction offense and the extent of the criminal history of the offender. The presumptive sentence is appropriate for the typical case but when there are substantial and compelling circumstances, a departure is more appropriate. The sentencing judge is required by law to provide written reasons to confirm the substantial and compelling nature of the case that justifies the departure. The issue before the Commission is: should plea agreement alone be accepted as a substantial and compelling reason for departure.

Information regarding felony sentencing is routinely monitored and analyzed by the Commission. Departures and their reasons highlight both the success and problems of the existing sentencing guidelines. With this information, the public can be assured that the court is held accountable for the sentencing decision. If a plea agreement involves a sentence departure and no other reasons are provided, there is little information available to provide for informed policy making or to ensure the public of accountability. Also, if there are no constraints on the type of sentence that can be agreed to without further justification, how do the guidelines achieve their goals of uniformity and proportionality?

The Commission is searching for ways to create greater balance in the criminal justice system where plea agreements are recognized as legitimate and necessary but the goals of the sentencing guidelines are not ignored. Judges, prosecutors, and defense attorneys were invited to an all day Commission meeting in October to discuss this issue. The Commission will present the issue and recommendations to the Legislature in an upcoming report.

MISSOURI

The Missouri Sentencing Advisory Commission

The Missouri Sentencing Advisory Commission released the newly created advisory guidelines in January 1997. Training sessions were held around the state for judges, prosecutors, public defenders, and private attorneys. Training sessions have been held at the annual judicial colleges.

Questions raised at the training sessions, as well as areas of interest, are being addressed in a newsletter created by the Commission. Data is being collected from sentencing judges who have volunteered to complete a one-page worksheet. This data will be useful in assessing whether the advisory guidelines are being utilized. The Commission is also considering comments and recommended changes for a possible revision of the advisory guidelines.

*Tracy Knutson, Administrator
Missouri Sentencing Advisory Commission
220 South Jefferson
St. Louis, MO 63103
(314) 877-1142 (phone)
(314) 877-1081 or 1082 (fax)
KnutsonT@slu.edu (e-mail)*

MONTANA

Montana Sentencing Guideline Commission

Montana's Sentencing Guideline Commission disbanded in May of 1997 after the 1997 session of the legislature chose not to continue funding.

The Commission had earlier reported to the legislature that it was unable to recommend guidelines at that time, but wanted very much to continue collecting data and educating the state in the sentencing options.

Senator Chris Christiaens and Representative Dan McGee comprise the Private Prisons Subcommittee of the Legislative Corrections Standards and Oversight Committee. They are pursuing similar goals by having created an ad hoc committee of interested individuals to continue collecting and analyzing sentencing data, reviewing existing sentencing codes, and studying voluntary guideline options.

They may be reached through the staff liaison, Susan Fox, at 406-444-3064, or at sfox@mt.gov.

Submitted by: Mike Cronin

NEVADA

Nevada Sentencing Commission

A new Chairman was appointed to the Sentencing Commission

in the past year. Jim Weston, a Deputy Police Chief for the Reno Police Department, was appointed by Governor Bob Miller to replace outgoing Chairman Sheriff Jerry Keller. Additionally, State Assemblyman Bernie Anderson, who is Chairman of the Assembly Judiciary Committee, was appointed to replace State Assemblyman Richard Perkins.

Many of the legislative recommendations made by the Sentencing Commission prior to the 1997 Legislative Session were adopted by the State Legislature. Among other things, the Legislature funded the Commission so that it is now staffed by two full time employees, will receive updated equipment, and allocates travel expenses (including two delegates to the NASC Annual, Conference). For a list of other laws which were enacted by the Legislature as a direct result of the Sentencing Commission's recommendations, contact:

Commissioner Daniel Albregts
2100 Pinto Lane
Las Vegas, Nevada 89106
(702) 384-1722.

NORTH CAROLINA

North Carolina Sentencing and Policy Advisory Commission

In October, the North Carolina Structured Sentencing Program was selected as one of ten winners of the Innovations in American Government Award for 1997. This award, cosponsored by the Ford Foundation and Harvard University's Kennedy School of Government, recognizes programs and policies that represent original and effective government efforts. This year, the ten winners were selected from 1,540 applicants representing federal, state, and local government programs from across the nation. As part of the award, the North Carolina Sentencing Commission will receive a \$100,000 grant. The grant is intended for use in disseminating information to the American public and in sharing lessons learned with other government agencies about vital solutions to challenging problems.

One of the unique aspects of the Structured Sentencing program is the use of a prison population projection model. Each year Sentencing Commission staff meet with criminal justice professionals from the Department of Correction, the Administrative Office of the Courts, the State Bureau of Investigation, and similar agencies to discuss criminal justice trends and to predict where those trends will lead in the next five and 10 years. As of June 30, 1997, the projected felony population was less than one percent higher than the actual population. The Sentencing Commission will be releasing its 1997-98 projections in December.

The Sentencing Commission made 18 recommendations to the

most recent session of the General Assembly to improve sentencing in North Carolina. Most of the recommendations made minor changes to sentencing laws based on suggestions received as part of the Commission's ongoing training and monitoring programs. The General Assembly enacted 14 of those recommendations, including the recommendation to make the Sentencing Commission a permanent body.

As of September 1, 1997, Susan Katzenelson began serving as the new Executive Director of the Sentencing Commission. Ms. Katzenelson's professional experience includes research and development, teaching, policy analysis and consulting in the fields of criminal justice. Most recently, she served as the Director of the Office of Policy Analysis with the United States Sentencing Commission. She has also served as its Deputy Director and Senior Research Associate in the Office of Monitoring.

Susan Katzenelson
Executive Director
North Carolina Sentencing and Policy Advisory Commission
PO Box 2472, Raleigh, NC 27602
Phone: 919-733-9543
Fax: 919-733-2991
E-mail: Not available yet.
Website: www.aoc.state.nc.us

OHIO

Ohio Sentencing Commission Update

The Ohio Criminal Sentencing Commission finalized recommendations on traffic offenders and the distribution of fines and costs. It will finalize its general misdemeanor proposals early in 1998. Then, the General Assembly will begin to review these proposals.

The Commission's juvenile study began early in 1997. Among other notions, the Commission is looking at statutes that blend adult and juvenile jurisdiction, particularly for serious offenders.

The Commission's felony proposals have been law for a year now. Meaningful data are beginning to emerge. Our projections look good, so far.

David Diroll
Executive Director
Ohio Criminal Sentencing Commission
513 East Rich Street, Suite 100
Columbus, Ohio 43215
Phone: 614-466-1833
Fax: 614-728-4703
E-Mail: DIROLLD@SCONET.OHIO.GOV

OKLAHOMA

Oklahoma Sentencing Commission Update

The Oklahoma legislature passed the 1997 Truth in Sentencing Act in the 1997 session. The Act created a structured sentencing system with grids for general crimes, drug, sex, and DUI; required violent offenders to serve 85% of the sentence and non-violent 75%; and mandated a community sentencing system. The Act will go into effect July 1, 1998, after review and revision in the 1998 legislative session.

The Act also revamped the former Truth in Sentencing Policy Advisory Commission into the reconstituted Oklahoma Sentencing Commission, staffed by the Oklahoma Criminal Justice Resource Center. The restructuring increased the number of legislators on the Commission from two to four, changed the number of members from fifteen to eleven, made all commissioners voting members, and added and eliminated representation on the Commission.

The Act further created and mandated a data collection and reporting system that requires extensive information from courts, district attorneys, and the state Department of Corrections for prisons and probation/parole. These data will be used for evaluation purposes as well as for the state's correctional population projection modeling. The state Supreme Court has required state courts to provide the data beginning December 1.

The Act has drawn opposition from prosecutors, law enforcement, and victims' groups who believe that some penalties are too lenient, that incarcerated offenders will not be housed in truly secure facilities, that community corrections infrastructure and costs will be inadequately addressed in the legislated time frame, and that the system may draw constitutional challenge in several areas. The legislature plans to deal with these and other concerns in a "trailer" bill that will be considered in the 1998 session. Other opponents fear that, even with the reforms, the subsequent system will still be too costly for the state and drain funding away from education, health care, highways, and other state-funded areas.

Paul O'Connell

Director

Oklahoma Criminal Justice Resource Center (staff)

5500 N. Western, Suite 245

Oklahoma City, OK 73118

phone: 405-858-7027

fax: 405-858-7040

e-mail: poconnel@oklaosf.state.ok.us

web site (for Resource Center): www.state.ok.us/~OCJRC/

PENNSYLVANIA

Pennsylvania Sentencing Commission

Revised sentencing guidelines became effective June 13, 1997 in Pennsylvania. The major changes involve harsher sentence recommendations for violent offenders and expansion of restrictive intermediate punishment sanctions for the non-violent offender. In 1995, the new Governor, Tom Ridge, had called for a Special Session on Crime that, along with the regular legislative session [1995-96] resulted in the passage of a number of new laws. One of the most notable was the adoption of '3-strikes' legislation that revised the mandatory sentences for repeat violent offenders. In revising the guidelines, the Commission provided consistency between this mandatory '3-strikes' statute and the guideline recommendations by ensuring that all 'crimes of violence' included in the 3 strikes act were in the upper tier of the guidelines that recommend state incarceration in all cases.

In expanding the recommendations for restrictive intermediate punishment [RIP], the major emphasis has been in the area of inpatient drug treatment. In the 1994 revision, the guidelines allowed for RIP in lieu of a county jail sentence. The 1997 guidelines expanded this concept to allow for a RIP exchange for certain "state" offenders [i.e. those offenders whose maximum sentence is between two and five years; normally they would go to state prison but the judge can designate that they serve the sentence in a county jail]. Before a judge can impose RIP in lieu of incarceration, the guidelines require that the offender undergo a drug and alcohol assessment and evaluation. If the offender is found to be in need of treatment, substance abuse treatment becomes the only RIP option. The legislature allocated an additional \$10 million for these drug and alcohol programs in the 1997-98 budget.

The Commission, along with the Department of Corrections, is mandated to monitor the progress of the state boot camp program. The boot camp program is located in rural Pennsylvania and has a well-balanced approach that requires drug and alcohol treatment, educational learning and job training, along with strenuous physical activity. The staff is extremely dedicated and proud of the fact that graduates of the program stay in touch with them and extend their appreciation for changing their lives - something staff says they did not experience in their previous correctional experiences. Thus far, the recidivism rate of boot camp graduates appears to be about the same as traditional prison graduates [about one-third]. It is anticipated that with more resources being devoted to the supervision of boot camp graduates once they return to the community, that the recidivism rate for those offenders will be reduced.

And last but not least, the Commission has a web site! Come visit us at <http://www.la.psu.edu/pcs>

SOUTH CAROLINA

South Carolina Sentencing Guidelines Commission

At the end of 1996, the South Carolina Sentencing Guidelines Commission completed development of Truth in Sentencing/Advisory Sentencing Guidelines for all offenses with maximum possible penalties of one year or more, excluding drug offenses, at the end of 1996. The majority of 1997 has been spent studying drug offenses for inclusion in the Guidelines Grid, and they are expected to be incorporated into the current grid proposal before legislative committee hearings begin. Guidelines legislation has been introduced in the House of Representatives with the Speaker of the House, David H. Wilkins, as its chief sponsor along with 47 other co-sponsors. Speaker Wilkins has given the Guidelines legislation top priority and committee hearings are set to begin in mid December approximately one month before the 1998 Legislative Session officially begins.

Ashley Harwell Beach

Director

South Carolina Sentencing Guidelines Commission

1105 Pendleton St., Suite 220

Columbia, SC 29201

(803) 734 6200

e-mail: abeach1@ix.netcom.com

UTAH

Utah Sentencing Commission

The Utah Sentencing Commission is recommending new intermediate sanctions, adopting new sentencing and release guidelines in the adult system, and implementing new sentencing guidelines in the juvenile system. The new intermediate sanctions recommendations include approximately \$3.2 million of additional resources for day reporting centers, a community correctional center focusing on probationers, privatization of presentence investigations to free up probation and parole officers for more intensive supervision, and additional drug courts. The Governor is currently considering these items in his budget recommendations to the legislature.

The Commission recently adopted new 1998 Sentencing & Release Guidelines for adult offenders. These voluntary guidelines will replace the 1985 version but will maintain a similar matrix format. The new version is intended to be as descriptive as possible and includes a separate matrix for sex offenders.

The new prescriptive Juvenile Sentencing Guidelines have been implemented and nearly 500 juvenile justice participants have been trained. These guidelines, also based on a matrix format, were fully funded at \$20 million which includes 60 new probation officers, \$6 million for a new *State Supervision* sentencing option, and a 72-bed secure facility. The premise of

the guidelines is earlier intervention, more accountability, and great assessment capability.

Ed McConkie

Director

Utah Sentencing Commission

101 State Capitol

Salt Lake City, Utah 84114

(801) 538-1645

Fax: (801) 538-1024

emcconki@state.ut.us

Web site: www.justice.state.ut.us

VIRGINIA

Virginia Criminal Sentencing Commission

The Virginia Sentencing Commission approved changes to the sentencing guidelines which became effective on July 1, 1997. The revised guidelines now include explicit consideration of drug quantity in convictions for the sale, distribution, and possession with intent to sell a Schedule I/II drug. The adjustments apply only to cocaine with no distinctions being made between crack and powder cocaine. First-time felons convicted of a drug sale involving one gram or less of cocaine are now recommended by the guidelines for the detention center incarceration program (an intermediate sanction). Felons selling at least one ounce (28.35 grams) of cocaine up to one-half pound (226.8 grams) have their guidelines midpoint sentence enhanced by three years; those selling one-half pound or more receive a guidelines midpoint increase of five years. The concurrent implementation of the enhancements for large volume cocaine sales and diversion for first-time, low volume cocaine sales is expected to have no prison bed space impact since the measures counterbalance each other. Other significant guidelines revisions include the consideration of victim's age in felony sex offenses other than forcible sodomy and rape. The revised guidelines include enhancements when these sex offenses are committed against victims under the age of 13.

The Commission has completed its research work on the development of an offender risk assessment instrument. The risk assessment instrument includes factors which were found to be related to the likelihood of felony recidivism. The legislature has directed the Commission to apply the risk assessment instrument to nonviolent felons who otherwise would be recommended for incarceration and to determine if 25% of this population could be diverted to alternative punishments. The risk assessment instrument has been integrated into the guidelines worksheet system and will be completed for nonviolent felons recommended in the guidelines for an active jail or prison term. A nonviolent felon is one convicted of either a felony larceny, fraud, or drug (cocaine quantity enhancement cases excluded) crime who has no prior violent adult convictions or violent juvenile adjudications. The risk

assessment instrument excludes those convicted of burglary or those who have a prior burglary since the legislation considers it a violent crime. The Commission has decided to pilot test the use of the risk assessment instrument in four judicial circuits. The pilot test will begin on December 1, 1997.

The Commission's 1997 Annual Report is completed and will be distributed in early January, 1998.

Richard P. Kern, Ph.D.

Director

Virginia Criminal Sentencing Commission

100 North 9th Street, 5th Floor

Richmond, VA 23219

Phone: (804) 225-4565

Sentencing Guidelines Hot Line: (804) 225-4398

Fax Number: (804) 786-3934

E-mail: rkern@vcsc.state.va.us

No web page

WASHINGTON

Sentencing Guidelines Commission

Washington is the only state using a determinate sentencing grid for juvenile offenders. The 1997 session of the Legislature approved the first major reform of the Washington guidelines since their passage in 1977. Among the changes are:

- Courts are now allowed to confine "minor/first" offenders. Previously, these offenders could not be confined.
- The minimum sentence for confinement in a state institution was increased from 8 weeks to 15 weeks.
- A chemical dependency sentencing option was added (allowing substitution of in-patient treatment for confinement).
- Elimination of age as a factor in the guidelines (younger children are no longer treated more leniently than older children).
- The sentencing grid was simplified (standard ranges are now based on the category of offense and the number of prior felonies and misdemeanors. There are 10 categories of offense seriousness and five categories of criminal history).
- It expands the list of 16- and 17-year-olds who must be automatically sentenced as adults.

The Commission's has issued its second annual report on the sentencing practices of individual judges for serious, armed felonies. It has also issued a report on the impact of a Drug Offender Sentencing Alternative.

Submitted by John Steiger, (360) 902-0605.

UNITED STATES (FEDERAL COURTS)

U.S. Sentencing Commission

In the spring of 1997, the Commission issued its *Annual Report* which details the Commission's activities and accomplishments for fiscal year 1996. The Commission also issued its inaugural edition of its *1996 Sourcebook of Federal Sentencing Statistics* which presents descriptive figures and tables along with selected district, circuit, and national sentencing data.

The Commission, on May 1, submitted to Congress for its review a report containing amendments to the sentencing guidelines. Amendments include: increased penalties for methamphetamine offenses; inclusion of flunitrazepam (the date rape drug) in the guidelines' drug quantity table; and increased penalties for smuggling an unlawful alien. These amendments became effective November 1, 1997.

Chairman Richard P. Conaboy spoke at the Tenth Anniversary International Conference of The Society for the Reform of Criminal Law held in London in July. The participants at the conference included judges from Europe, Africa, Asia, and the Americas. Prior to arriving in England, Judge Conaboy met with Ireland's Taoiseach (Prime Minister), Attorney General, and Members of the High Court and discussed guideline sentencing in the U.S.

Also in July, the Commission released a drug conversion software program which helps determine the marijuana equivalencies of various drugs as an aid in calculating the guidelines for offenses involving different types of drugs.

In response to a congressional directive to comment on the Department of Justice's report on federal prosecutorial charging and plea practices for money laundering offenses, the Commission in September sent to Congress a report on money laundering sentencing policy.

In October, the Commission held a public hearing on the sentencing guidelines' definition of loss. Witnesses were Judge Gerald Rosen, Representative of the Committee on Criminal Law; Gregory Hunt, Chairperson of the Probation Officers' Advisory Group; James Felman from the Practitioners Advisory Group; and Frank Bowman, Visiting Professor at Gonzaga University School of Law.

In November, the Commission released a 20-minute videotape highlighting the most important amendments to the sentencing guidelines that took effect November 1, 1997. The majority of the amendments discussed in this video respond to congressional directives, including those that increase penalties for methamphetamine and immigration offenses.

John Kramer
Executive Director

United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500
Washington, DC 20002
Phone: 202-273-4510
Fax: 202-273-4529
E-mail: KRAMER@ussc.gov

JOB ANNOUNCEMENT

EXCELLENT CAREER OPPORTUNITY

VIRGINIA CRIMINAL SENTENCING COMMISSION

ASSOCIATE DIRECTOR

The Criminal Sentencing Commission, an agency of the Supreme Court of Virginia, seeks an Associate Director. The Associate Director manages research projects on sentencing, recidivism, prison population impacts and other justice system topics. The Associate Director provides daily oversight to the analysis and evaluation activities of the staff. This position is responsible for ensuring the appropriate selection and application of sophisticated research methodologies for sampling, surveys, data collection instruments, multivariate statistical analysis, and general research design. The primary requirement for this position is demonstrated proficiency in social science research methods and multivariate statistical analysis of data. Professional work experience using both descriptive and multivariate statistical techniques and working with large data sets is highly desirable. Ability to effectively communicate complex information to lay audiences is required. An advanced degree in a social science discipline is required. Experience with the SPSS statistical software package is required. Prior experience in supervising professional research staff is highly desirable. Compensation is very competitive and will be commensurate with training and experience. To apply send a detailed resume and a salary history to the Recruitment Committee, Virginia Criminal Sentencing Commission, 100 North Ninth Street, 5th Floor, Richmond, VA 23219. Applications will be accepted until the position is filled.

AN EQUAL OPPORTUNITY EMPLOYER

This edition of the NASC Newsletter was edited by John C. Steiger, Ph.D., Washington State Office of Financial Management, (360) 902-0605, E-Mail: john.steiger@ofm.wa.gov.

UNITED STATES SENTENCING COMMISSION
ONE COLUMBUS CIRCLE, NE
SUITE 2-500
WASHINGTON, DC 20002