



NASC newsletter

JULY 2009

A PUBLICATION OF THE NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS

National Association of Sentencing Commissions

Executive Board

Meredith Farrar-Owens, President
Deputy Director,
Virginia Criminal Sentencing Commission
Meredith.Farrar-Owens@vcsc.virginia.gov

Kara P. Dansky, Vice President
Executive Director,
Stanford Criminal Justice Center
KDansky@stanford.edu

Linda Holt, Treasurer
Research Director,
Massachusetts Sentencing Commission
Linda.Holt@jud.state.ma.us

Lynda Flynt, Secretary
Executive Director,
Alabama Sentencing Commission
Lynda.Flynt@alacourt.gov

Barb Tombs,
Sentencing Consultant,
bstombs@gmail.com

Kevin Blackwell,
Senior Research Associate,
U.S. Sentencing Commission
KBlack@ussc.gov

David Soulé
Executive Director,
Maryland State Commission
on Criminal Sentencing Policy
dsoule@crim.umd.edu

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2009 NASC Conference

Fifteen Years of NASC:

Looking Back, Moving Forward

August 2-4, 2009 • Baltimore, Maryland

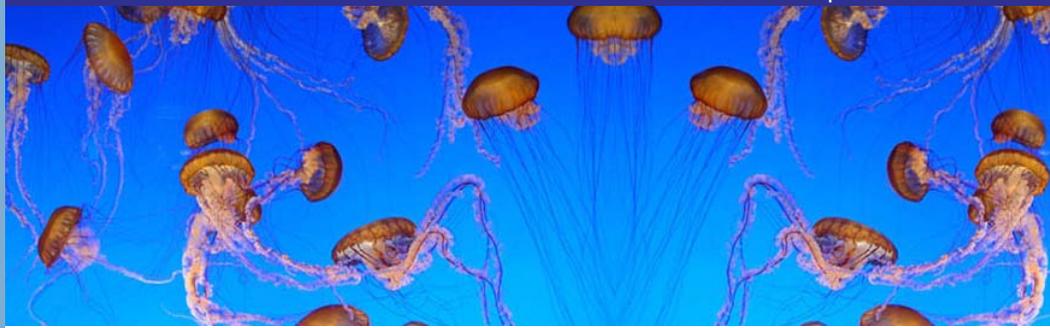
To mark the 15th anniversary of NASC, the theme of this year's conference is "Fifteen Years of NASC: Looking Back, Moving Forward." The conference, hosted by the Maryland State Commission on Criminal Sentencing Policy, will be held in Baltimore in the beautiful Inner Harbor on August 2-4, 2009. The agenda will invite participants to examine the lessons learned over the last decade and a half and to consider what challenges lie ahead - and how best to face them. The 2009 conference promises to be both engaging and thought provoking.

Baltimore's shining crown jewel, the Inner Harbor, is lined with attractions, restaurants, hotels and the amazing Baltimore Visitor Center, right in the heart of downtown(<http://baltimore.org/>).

From fine dining on white linen to a traditional crab feast on brown paper, Baltimore's restaurants and night clubs offer countless ways to enjoy yourself. Baltimore's downtown neighborhoods, including Mount Vernon, Fell's Point and Little Italy, serve up great food, fascinating history, unique attractions and shopping galore. During the War of 1812, Fort McHenry, in Baltimore's harbor, defended the city and stopped a British advance. The valiant defense of the fort inspired Francis Scott Key to compose the Star Spangled Banner. The National Aquarium, housing more than 16,000 creatures, is world-famous and undoubtedly Maryland's leading tourist attraction. All of this makes Baltimore a superb setting for NASC's annual conference.

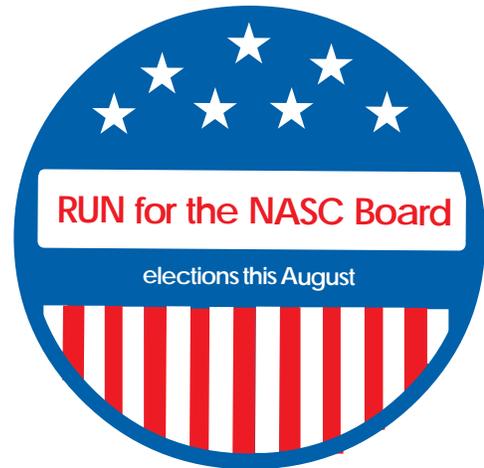
For more information, visit the conference website at <http://www.msccsp.org/nasc2009/>

Jellies Invasion: Oceans Out of Balance at the National Aquarium



President's Message

The last year has been challenging in many ways. With troubled economic times, revenues have fallen in both the public and private sectors. Budgets have been reduced, now and for the near future. This means that states must set spending priorities in all areas, including public safety. Criminal justice policy makers and professionals alike are seeking ways to become more cost efficient than ever before, all while maintaining public safety. The agenda for this year's NASC conference, which includes many nationally-known speakers, is designed to generate discussion of these critical issues. The conference, to be held in Baltimore's beautiful Inner Harbor on August 2-4, will invite participants to examine the lessons learned over the last decade and a half and how best to face the many challenges that lie ahead. Please visit the conference website at <http://www.msccsp.org/nasc2009/>. Through the website, you can see the complete conference agenda, register, and make hotel reservations.



I would like to thank the Maryland State Commission on Criminal Sentencing Policy for hosting this year's conference. In particular, I would like to thank the Commission's director, David Soulé, and his entire staff for working tirelessly to ensure the success of the conference.

Serving on the NASC Executive Committee has always been a very rewarding experience for me. This year, three Executive Committee positions will be up for election. I encourage anyone interested in running for the Executive Committee to contact me or any other member of the Executive Committee to let us know.

On behalf of the NASC Executive Committee, we look forward to seeing you in Baltimore!

Meredith Farrar-Owens
Deputy Director,
Virginia Criminal Sentencing Commission
Meredith.Farrar-Owens@vcsc.virginia.gov

*Photograph:
The Seven Foot Knoll
Lighthouse is the
oldest surviving
screw-pile lighthouse
built as an aid to
navigation on the
Chesapeake Bay.*



Conference Registration



Baltimore
2009
NASC Annual
Conference

Fifteen Years of NASC: Looking Back, Moving Forward

Name _____

Title _____

Agency _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

E-mail _____

Special Needs _____

Registration Fees

The conference registration fee is \$375.00 (\$450.00 if after July 10, 2009). The conference registration fee includes a reception on Sunday evening and breakfast and lunch on Monday and Tuesday.

Travel Information

Hotel

Renaissance Baltimore Harborplace Hotel. The conference rate is \$185 + tax. You must make your reservations by July 8th to take advantage of this special rate. Reservations may be made directly by calling 1-800-535-1201 and referring to the National Association of Sentencing Commissions. If you register online, please enter "TIMTMA" in the "group code" field to receive the special rate.

For More Information, please contact:

Nicola Smith-Kea
NASC Conference Program Coordinator
301-403-4165

Conference Registration Fee

If paid by July 10 \$375.00 \$ _____

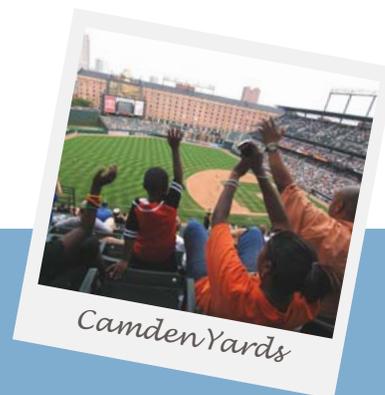
If paid after July 10 \$450.00 \$ _____

TOTAL DUE \$ _____

Payment Method

A check or purchase order made payable to NASC for \$ _____ is enclosed.
(NASC Federal ID # 51-0372368)

Please send payment to:
Maryland State Commission on Criminal Sentencing Policy
Attn: 2009 NASC Registration
University of Maryland
4511 Knox Road, Suite 309
College Park, MD 20742



Camden Yards



Baltimore Aquarium



Fell's Point

Baltimore

Conference Agenda

The National Association of Sentencing Commissions was created to facilitate the exchange of sentencing information, ideas, data, expertise, and experiences and to educate on issues related to sentencing policies, sentencing guidelines and sentencing commissions.

Every year the NASC Conference brings together hundreds of judges, legislators, academics and policy-makers from around the country to examine our nation's experiences with sentencing laws and practices, and to identify emerging issues and innovations.



Sunday, August 2

1:35 p.m. Baltimore Orioles v. Boston Red Sox

Come join your NASC colleagues for an afternoon of baseball at the beautiful Oriole Park at Camden Yards! Limit- 2 tickets per registrant, \$25 per ticket.

NASC has reserved 50 tickets to the Orioles baseball game on Sunday, August 2, 2009 versus the Boston Red Sox. The game is scheduled for 1:35 pm. The NASC Sunday evening reception at the Renaissance will be held at 6:00 pm, allowing time to attend both the game and the reception. The seats are located in the Eutaw Street Bleachers, Section 94.

For more information go to: <http://www.msccsp.org/nasc2009/BaseballTickets.aspx>

3:30 p.m. Registration Begins - Baltimore Foyer

6:00 p.m. NASC 2009 Conference Reception - Watertable Ballroom

Monday, August 3

7:30 a.m. Continental Breakfast - Baltimore Foyer

8:30 a.m. Welcome Address - Baltimore Ballroom
Honorable Anthony G. Brown, Lieutenant Governor of Maryland
Honorable Howard S. Chasanow, Chair, Maryland State Commission on Criminal Sentencing Policy

9:00 a.m. Plenary Session I: The State of Sentencing Research - Baltimore Ballroom
Alfred Blumstein, Professor, Carnegie Mellon University
Charles Wellford, Professor of Criminology and Criminal Justice, University of Maryland; Vice-Chair, Maryland State Commission on Criminal Sentencing Policy
Cassia Spohn, Professor & Director of Graduate Programs, Arizona State University
Moderator: **Meredith Farrar-Owens**, Deputy Director, Virginia Criminal Sentencing Commission

10:15 a.m. Morning Break - Baltimore Foyer

Conference Agenda cont.

10:30 a.m. Break Out Sessions:

#1 Risk/Needs Assessment

James Austin, President, JFA Institute
Christopher Baird, Executive Vice President, National Council on Crime and Delinquency
Avi Bhati, Senior Research Associate, Justice Policy Center, The Urban Institute

Moderator: **Kim Steven Hunt**, Senior Research Associate, U.S. Sentencing Commission

#2 Influence of Politics and Media on Criminal Penalty Development

Gabriel Sayegh, Director, State Organizing and Policy Project, Drug Policy Alliance
Tom Ullmann, Public Defender, State of Connecticut and Member, Connecticut Sentencing Task Force
Byron Warnken, Associate Professor of Law, University of Baltimore School of Law

Moderator: **David A. Soulé**, Executive Director, Maryland State Commission on Criminal Sentencing Policy

#3 An International Perspective on Sentencing

Kevin McCormac, Head of Secretariat, Sentencing Guidelines Council for England and Wales
Hyungkwan Park, Senior Public Prosecutor and Professor, Legal Research and Training Institute and Special Advisor to the Korean Sentencing Commission
Timothy Webster, Fellow, China Law Center, Yale Law School

Moderator: **Richard Gebelein**, Chief Deputy Attorney General, Delaware Dept. of Justice

12:00 p.m. Luncheon - Baltimore Foyer

1:30 p.m. Break Out Sessions:

#1 Sentencing Since Booker

Honorable Deborah K. Chasanow, U.S. District Court for District of Maryland
Paul Hofer, Chief Sentencing Policy Analyst, Federal Public Defenders
Kathleen Grilli, Deputy General Counsel, U.S. Sentencing Commission

Moderator: **Kevin Blackwell**, Senior Research Associate, U.S. Sentencing Commission

#2 Evolving Roles of Sentencing Commissions

Meredith Farrar-Owens, Deputy Director, VA Criminal Sentencing Commission
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Kenneth Cowgill, Project Director, DC Sentencing and Criminal Code Revision Commission

Moderator: **Barbara Tombs**, Sentencing Consultant

#3 The Role of Victims in Sentencing Policy

Russell Butler, Director, Maryland Crime Victims Resource Center
Robert Davis, Senior Research Analyst, RAND
Danielle Sered, Director, Common Justice, Vera Institute of Justice

Moderator: **Kira Antell**, Congressional Liaison, U.S. Sentencing Commission

2:45 p.m. Afternoon Break - Baltimore Foyer

Monday, August 3

- 3:00 p.m. **Round Table Discussions:**
Forward Thinking in Bureau of Justice Statistics Collections
Chair: **Thomas Cohen**, Statistician, Bureau of Justice Statistics
- Practitioner Application of Risk/Needs Assessments**
Chair: **Helen Pedigo**, Executive Director, Kansas Sentencing Commission
- Rebuilding Justice in Eastern Europe**
Chair: **Richard Gebelein**, Chief Deputy Attorney General, Delaware Dept. of Justice
- Restorative Justice Applications**
Chair: **Danielle Sered**, Director, Common Justice, Vera Institute of Justice
- A Review of Federal Sentencing Practices**
Co-Chairs: **Dennis E. Curtis**, Clinical Professor Emeritus of Law and Professorial Lecturer in Law, Yale Law School; **Brent Newton**, Deputy Staff Director, U.S. Sentencing Commission

Tuesday, August 4, 2009

- 8:00 a.m. **Continental Breakfast** - Baltimore Foyer
- 9:00 a.m. **Plenary Session II: The Consequences of Escalating Incarceration Rates** - Baltimore Ballroom
Michael Jacobson, Director, Vera Institute of Justice
Anne Piehl, Associate Professor, Department of Economics & Program in Criminal Justice, Rutgers University
Kent Scheidegger, Legal Director, Criminal Justice Legal Foundation
Moderator: **Kara Dansky**, Executive Director, Stanford Criminal Justice Center
- 10:15 a.m. **Morning Break** - Baltimore Foyer
- 10:30 a.m. **Break Out Sessions:**
- #1 Shrinking Budgets While Meeting Courts and Corrections Needs**
J. Michael Brown, Secretary of Justice and Public Safety, Commonwealth of Kentucky
Mark Cohen, Professor of Management and Law, Vanderbilt University
Jack O'Connell, Jr., Director, Delaware Statistical Analysis Center
Moderator: **Gary D. Maynard**, Secretary, Maryland Dept. of Public Safety & Correctional Services
- #2 Release Decisions**
Mark Bergstrom, Executive Director, Pennsylvania Sentencing Commission
Jesse Janetta, Research Associate, The Urban Institute
Jacey Skinner, Director, Utah Sentencing Commission
Moderator: **Kevin Reitz**, Professor of Law, University of Minnesota School of Law
- #3 The Interdependence of Jail and Prison Populations and Policies**
Richard Allen, Commissioner, Alabama Department of Corrections
Barry Green, Deputy Secretary of Public Safety, Commonwealth of Virginia
Stefan LoBuglio, Chief, Pre-Release and Reentry Services, Montgomery County (MD) Department of Correction and Rehabilitation
Moderator: **Sandy Moll**, Executive Director, Arkansas Sentencing Commission
- 12:00 p.m. **Luncheon: NASC Election Results and NASC Annual Business meeting** - Baltimore Ballroom

New Developments in Alabama

- For the first time, Alabama is able to provide compliance information on utilization of the initial voluntary sentencing standards, which were implemented the beginning of FY 2007.

The Alabama Sentencing Commission has now completed its first compliance report on its major initiative, implementation of the Initial Voluntary Sentencing Standards. These standards, applicable to felony offenses representing 87% of the most frequent crimes of conviction, consist of scored worksheets recommending both prison/non-prison and sentence length dispositions for three offense types – Personal, Property and Drugs. Sentence lengths are derived from sentence length tables developed utilizing historically-based “time imposed” sentences, modified to slightly decrease sentences imposed for property and drug offenses. Since the recommended sentence lengths were based on historical sentencing practices that included enhancements from mandatory minimum and repeat offender statutes, with passage the Sentencing Reform Act adopting the first set of sentencing standards, an express provision was included providing that additional enhancements do not apply if the sentence imposed complies with the standards recommendation. This is a unique feature of Alabama’s sentencing standards, and one that has helped alleviate the harsh penalties that sometimes result from Alabama’s broad-sweeping Habitual Felony Offender Act, which covers all felonies and fails to take into account the classification of prior convictions.

Submission Compliance - Initial data showed 12,499 worksheets received by the Commission from January 1, 2007 through September 30, 2008. Of these, 11,485 were identified as complete and usable for compliance purposes. Based on the number of worksheet sentencing events during that same time period, worksheets received were only 45% of the number of worksheets expected. A county-by-county analysis showed submission compliance above 70% for 12 counties; 50-70% for 24 counties; 30-50% for 18 counties and below 30% compliance for 13 counties.

Since the Commission only received 45% of worksheets for applicable cases, it is difficult to pinpoint the effectiveness of the sentencing standards in the first two years. The Commission has been encouraged by some initial findings and has become aware of areas that need to be addressed to improve future compliance figures. Of the received worksheets, the prison vs. non-prison (in/out) recommendation was followed in 75% of the cases. While sentence length compliance was lower than desired, analysis of sentence lengths has led to an agreed upon need for additional training on what constitutes compliance with sentence length recommendations, particularly split sentences which contain both an incarceration length portion and a total sentence length portion. The Commission is confident that an increasing number of worksheets will be submitted during this fiscal year and more judges will be further educated on standards compliance, particularly sentence length compliance.

In/Out Compliance was 75% and Overall compliance, which measures compliance with both the prison/non-prison recommendation and sentence length recommendation, was 59%. Compliance – Submission, In/Out, and Overall - varied widely among the 41 judicial circuits in the State.

This data is primarily valuable as the starting point for enabling the Commission to identify major process issues relating to receipt of properly completed sentencing worksheets and accurate sentencing information. These issues involve misconceptions about the system that require additional training for users, problems with using locally-generated sentencing data, and confusion over what is a compliant sentence. Other issues include a few circuit clerks simply being unaware of the requirement for forwarding completed worksheets to the Commission and electronic worksheet users not changing electronically prepared and submitted worksheets when the charge or factors change at the sentence hearing. The Commission's 35 training sessions around the State apparently did not reach all of the key participants. The Commission has now begun to address many of these problems through development of a Uniform Sentencing Order; training court specialists on uniform entry of sentencing information, and educating judges and prosecutors on worksheet completion and standards compliance. The Commission will continue to identify other process issues and work to improve these through education, training, and where necessary, pursue legislative remedies.

- The Cooperative Community Alternative Sentencing Project (CCASP), a joint initiative of the Chief Justice and Alabama Sentencing Commission, strives to establish model community supervision programs.

When efforts to expand and improve community supervision and punishment in Alabama at the State level continued to fail, the State of Alabama made a strategic decision to switch emphasis to garner community support and involvement from local entities, providing assistance from the State where prudent. Alabama began this new initiative by implementing the Cooperative Community Alternative Sentencing Project (CCASP). The project's primary objective is to provide an opportunity for key local criminal justice stakeholders to develop collaborative solutions to system-wide criminal justice issues, focusing particularly on the identified need to build a strong and effective community punishment system. A State Steering Committee, made up of State and local stakeholders, selected four pilot sites to participate in CCASP after a competitive statewide application process. The applications of the selected sites demonstrate each County's cooperative spirit and commitment to improving its system through innovative means.

Each pilot site has been asked to build a community supervision and punishment system that will serve as a model for the rest of the State and to provide mentors to other jurisdictions in Alabama. Each site is also expected to build, expand, or improve its system through the use of evidence-based practices and policies that can be used to provide proof to the Legislature and the public that a strong community-based punishment system is a fiscally sound alternative to incarceration for nonviolent offenders, which can reduce recidivism and lead to a safer community.

This project, made possible by funding from the Pew Charitable Trusts, with technical assistance provided by the Vera Institute of Justice and the Crime and Justice Institute, has already begun to show positive results in the first two pilot sites. The local steering committees have provided an attentive audience to teach the sites the principals of evidence-based practices, the benefits of community punishment and supervision, and the necessity of using a strong risk and needs assessment instrument to gauge supervision levels and services that should be provided for each

offender. Work in the four pilot sites is being initiated in phases, with work in the first site initiated the beginning of FY 09 and well underway. Facilitated committee meetings or sessions have already produced a level of communication not seen before among the criminal justice agencies of that community. In the second site, the committee has been selected and will begin to meet at the end of June 2009.

Perhaps the greatest positive that has come out of CCASP is the recommendation of the State Steering Committee that Alabama implement a risk and needs assessment tool throughout the State. After reviewing a number of instruments, the Steering Committee selected one for use in Alabama and is currently working through CCASP to find funding for implementation and validation of the instrument for Alabama. Early indications are that funding will be found for this endeavor.

- Truth-In-Sentencing delayed until 2011.

Alabama's foray into truth-in-sentencing has been a little different from the experience of many other states. While truth-in-sentencing remains a priority for Alabama, the Sentencing Commission recognized the inadvisability of implementing such a system without careful planning and an infrastructure that could support new sentences and requested the Legislature to postpone development and implementation of the second set of sentencing standards based on "time served" and modeled to achieve truth-in-sentencing, until 2011. Several factors demand postponement: 1) a prison system currently operating at 185% to 195% of capacity; 2) the initial sentencing standards have only been in place a little over two years and our first compliance rates are less than perfect; 3) judges, prosecutors, and lawyers must become more familiar with the existing standards and compliance rules; and 4) there must exist viable alternative supervision and treatment programs in the community for nonviolent felony offenders. Alabama is delaying any recommendation of truth-in-sentencing until the infrastructure exists to support the recommendation and working to develop that infrastructure. Two current initiatives, implementation of the Initial Voluntary Sentencing Standards and the Cooperative Community Alternative Sentencing Project (CCASP) are uppermost in this effort to establish the necessary infrastructure.

Alabama's 2009 Legislative Session just ended with the passage of one of the Commission's four bills, the bill to delay the presentation of truth in sentencing recommendations until 2011. A second bill, modifying the standards to include more offenses, and clarifying the instructions for using the standards, appeared to be in a position for passage but failed to move during the last days of the session. It is expected that these modifications will be reviewed and presented again in the next session.

Alabama continues to work on developing and expanding community supervision alternatives, implementing and measuring compliance with the initial voluntary sentencing standards, and proposing modifications to the initial standards to improve their use as necessary steps to adopting truth-in sentencing for this State.

Alaska's Criminal Justice Working Group, made up of executive branch agency commissioners and directors, and representatives of the courts, is chaired by Lieutenant Governor Sean Parnell and Alaskan Supreme Court Justice Walter Carpeneti. During the past year, the group identified a package of evidence-based programs that could reduce recidivism or prevent crime. Using the model developed by the Washington State Institute of Public Policy (*Evidence-based Public Policy options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*, 2006, Associate Director Steve Aos and others), and the programs identified in Alaska, the UAA Institute for Social and Economic Research reported to the legislature that by spending \$4 million annually on expanding intervention and prevention programs, the state could save \$321 million between 2010 and 2030 by incarcerating fewer people and by delaying prison construction costs (*The Cost of Crime*, ISER, January 2009).

The CJWG made three recommendations to the 2009 legislature:

- For maximum cost-effectiveness through preventing future possible crimes, the CJWG recommended that the state encourage early childhood education programs. Pre-kindergarten education for 3 and 4-year-olds reduces recidivism by 14%, and has a net benefit to the state of about \$12,200 for each child served. The long-term payoff makes the immediate investment worthwhile.
- The CJWG supported expansion of existing intervention programs for at-risk youth and for juvenile offenders. Aggression replacement training, family therapy and institutional transition programs all have been shown to reduce recidivism by 10% to 16%, with benefits to the state ranging from about \$18,000 to \$40,000 per offender.
- To respond to the immediate needs of Alaska's 5,300 incarcerated offenders and 6,000 felony offenders on probation and parole, the CJWG supported increased access to substance abuse treatment for both incarcerated and released offenders; education; and vocational training. These programs can reduce recidivism by 4% to as much as 17%, with cost-benefit ratios of \$4,300 to \$13,000.

By the end of the legislative session, the state had made significant progress: The legislature passed the governor's proposed pre-kindergarten education pilot project with full funding. It funded five new substance abuse treatment programs for incarcerated offenders, doubling the number of these programs for inmates. It supported ongoing juvenile and adult justice intervention and rehabilitation programs, including those recommended by the CJWG.

Sex offender treatment was a special case. ISER identified it as a program that could reduce recidivism, but one that did not meet the criteria for cost-effectiveness. Also, to be effective, both an incarceration component and a follow-up program for released offenders were needed. Alaska had the follow-up program for released offenders in place; during the 2009 session, the legislature funded the incarceration component.

The CJWG has now turned its attention to establishing ways to measure the effectiveness of the programs. ISER is working with the group to define specific targets for each program. The Alaska Judicial Council and ISER are designing the needed data collection instruments and process. Agencies are identifying their in-house means of measuring success for each program.

The Working Group will create a comprehensive plan for achieving the recidivism reduction targets. Part of the plan includes assuring that programs are enrolling the anticipated number of offenders. The programs also will emphasize implementing the programs as designed, so that accurate measurements are made. The CJWG will draw on its status as a forum for discussion and collaboration to assist individual agencies to maximize their ability to reduce recidivism and prevent new crime.

– Teri Carns, Alaska Judicial Council –

Court Metrics

Massachusetts Sentencing Commission staff assisted in the publication of the third annual report on case flow metrics for the Administrative Office of the Trial Court. This series of performance metrics is based on the CourTools model developed by the National Center for State Courts. In calendar year 2008 the Massachusetts Trial Court:

- cleared cases at a rate of 97.0%;
- disposed of 89.4% of cases within established time standards;
- reduced the number of cases pending beyond time standards by 6.0%; and
- began 78.0% of all trials by the second trial date.

A total of 9,046 court users participated in the Access and Fairness Survey Project which was conducted at every court location in Massachusetts. The results of the Access and Fairness project provide interesting and valuable data as indicated by the following responses from the 9,046 court users surveyed:

- 80.5% agreed or strongly agreed that their overall experience at the courthouse was satisfactory;
- 87.7% agreed or strongly agreed that they were treated with courtesy and respect;
- 91.4% agreed or strongly agreed that they felt safe in the courthouse; and
- 68.6% agreed or strongly agreed that they were able to complete their court business in a reasonable amount of time.

Information on all of the CourTools currently utilized in Massachusetts (including the full Court Metrics Report for Calendar Year 2008 and the Report of Access and Fairness Survey Project) are available at: <http://www.mass.gov/courts/cmabreport.html>.

Legislation

The Massachusetts legislature is just beginning the 186th session of the General Court. A number of sentencing reform proposals were filed for the new two-year legislative session, including proposals for sentencing guidelines.

Governor Patrick filed a bill entitled "An Act to Prevent Crime and Reduce Recidivism by Increasing Supervision and Training Opportunities for Inmates." If passed, this bill would provide for a period of mandatory post-release supervision for those offenders sentenced to state prison who complete the incarceration portion of their sentences without supervised release (either successful completion of a period of parole supervision or a period of court ordered post-release probation supervision). The bill would also authorize the parole board to release those offenders incarcerated for mandatory drug offenders after serving two-thirds of the maximum term - even if that is less than the mandatory minimum term of incarceration for those offenses.



Budget

Massachusetts, like so many other states, is experiencing a severe fiscal crisis in FY2009 and FY2010. Both the Massachusetts House of Representatives and Senate have included funding for the Sentencing Commission as part of the budget for the Trial Court. In the past the legislature recommended a separate operating budget for the Sentencing Commission. This consolidation should help to ensure the continued operations of the Commission. Consistent with Trial Court policy, the Sentencing Commission has implemented a number of measures in response to the current fiscal crisis in the state: voluntary reduction in hours for staff; elimination of stipends for student interns; elimination of bottled water; reduction in office space allocated to the agency; reduction in in-state travel; elimination of out-of-state travel. Sentencing Commission staff volunteered to work with the Land Court to assist in the processing of mortgage foreclosure cases which are currently backlogged.

Survey of Sentencing Practices

The annual survey of sentencing practices for FY2007 and FY2008 are now available at the Massachusetts Sentencing Commission's website: <http://www.mass.gov/courts/sentcomm.html>.

The North Carolina Sentencing and Policy Advisory Commission issued a study report in 2007 recommending that the age of juvenile court jurisdiction be increased to 18. Currently, North Carolina treats all 16- and 17-year-old offenders as adult criminals. The Commission's proposal is the basis for a bill introduced during the 2009 Session of the General Assembly which would raise the juvenile age to 18. Although the bill received a favorable report from a judiciary committee, its momentum has stalled as legislators focus on the budget.

At the recommendation of its Research and Policy Subcommittee, the Sentencing Commission is exploring the development of a risk assessment instrument for use at key decision points prior to sentencing. This project was inspired by the offender risk score developed by the Commission's research staff in its biennial recidivism reports, which proved to be highly accurate in predicting an individual's likelihood of recidivism based on certain personal characteristics identified as risk factors.

The Sentencing Commission published its second report on juvenile recidivism in 2009. The report was based on a sample of more than 20,000 juveniles who were brought to court with a delinquent complaint during FY 2004/05, and tracked their subsequent delinquent complaints and adult arrests during a three-year follow-up period. In addition to providing the overall recidivism rate for the sample, the report presented comparable rates within the sample for juveniles who were diverted, dismissed, or adjudicated. The report found a clear relationship between a juvenile's level of involvement with the juvenile justice system and the likelihood of recidivating.

In response to a 2008 legislative mandate, the Sentencing Commission completed a feasibility study for measuring the effectiveness of community programs that receive funding from North Carolina's Juvenile Crime Prevention Councils (JCPC). These programs serve youth who are involved in the juvenile justice system or who are identified as at risk of becoming delinquent. The Commission submitted its final report to the legislature in May 2009, proposing a methodology to measure JCPC program effectiveness as well as a timetable for the next phase of the study.

There's a French joke about two guys looking out over a lake. One comments, "that's a lot of water" (I translated). The other replies, "And that's just the top of it."

With 49,000 inmates and a state budget reduced by layoffs in the manufacturing sector, various Ohio policy makers have tried to look below the surface of the sentencing statutes for relief. The Sentencing Commission has been in the swim. Many ideas have been floated, but few have held water.

Ohio's House and Senate are controlled by different parties, making consensus difficult. And the infusion of federal stimulus money mollified the immediate crisis, perhaps leaving a larger budget hole in two years.

Initially, the Governor's budget called for easing prison crowding by enacting an expanded "earned credit" program. Inmates could receive a reduction of up to seven days per month for meaningful time spent in meritorious programs. However, since Ohio has one of the nation's most honest "truth-in-sentencing" statutes--two years means two years--there was serious opposition. Ohio's approach, enacted before the feds redefined "truth" as 85% of the truth, was initially suggested by the Sentencing Commission in the early '90s. It remains popular.

While now open to some form of earned credits, the Sentencing Commission has pushed harder for drug sentencing reform. Drug possession and trafficking offenders account for about 30% of new admissions to Ohio prisons each year. In part, this is largely because cocaine remains a popular and compelling drug. (To paraphrase one of Homer Simpson's smartly dumb observations: Drugs, "the cause of and solution to all of life's problems.") In part, this is because our statutes often treat drug offenses more severely than non-drug offenses at the same felony level. Also, our General Assembly enacted mandatory sentences for certain drug activities at lower felony levels than for non-drug offenses, a vestige of the "War on Drugs."

The Commission has been reworking our drug statutes, trying to treat drug and non-drug sentencing more alike. We've also been looking at expanding programs in lieu of conviction for more drug offenders. If there is legislative interest, we plan to try to better gauge the quantity of each common street drug needed for a certain impact, perhaps drawing the lines differently for the threshold amounts at each felony level.

Drugs aside, the Commission has been working to fill gaps in statutes that do not clearly indicate a culpable mental state (*mens rea*), yet aren't intended to carry strict liability. In so doing, we are considering a new definition of "reckless" conduct--moving away from the Model Penal Code definition--and looking to require "knowing" conduct for more offenses. The Commission also continues working on its project to simplify the Criminal Code. A formal draft might be considered by the legislature later this year.

On May 12, 2009, Oklahoma Governor Brad Henry signed Enrolled House Bill No. 1676, which, among other things, repealed the Oklahoma Sentencing Commission. The effective date of the measure is August 26, 2009.

The Legislature initially created the Oklahoma Truth In Sentencing Policy Advisory Commission in 1994, and subsequently renamed it the Oklahoma Sentencing Commission in 1997 with the passage of the Oklahoma Truth in Sentencing Act. When the Legislature repealed the Oklahoma Truth in Sentencing Act in 1999, the Commission maintained the statutory authority to make recommendations to the Legislature that pertain to sentencing laws and policies. As a result, each year the Commission conducted projections of prison population growth; collected statistical data relating to sentencing and corrections; reviewed proposed legislation that modified criminal punishments; and applied this information to formal recommendations regarding the criminal justice and corrections systems. The statutory language relating to each of these tasks has been repealed.

In addition to repealing the Commission, House Bill 1676 transferred the functions and personnel of the Oklahoma Criminal Justice Resource Center (OCJRC) to the Oklahoma State Bureau of Investigation (OSBI) and the Office of the Attorney General. OCJRC had been responsible for providing administrative support to the Commission, including the projections of prison population growth, the collection of statistical data, and the fiscal analysis of proposed criminal punishment legislation.

Legislators indicated that House Bill 1676 would improve efficiency and accountability at OCJRC. Indeed, there will be improvements in several research initiatives, as both OSBI and OCJRC collect felony disposition data, and the agency transfer will eliminate this duplication. Additionally, the bill designates OSBI, rather than OCJRC, as the state's Statistical Analysis Center (SAC), which means the SAC will now be co-located with the state's criminal history records repository. This merger of data collection and statistical analysis functions can provide opportunities to learn more about the criminal justice system in Oklahoma. Finally, while not required by statute, there is nothing to preclude OSBI from conducting future research on sentencing and corrections. These are among the most common events in the criminal justice system, and a full research agenda could address them at some level.

For more information about the repeal of the Commission and the transfer of OCJRC, please contact Christopher M. Hill, Ph.D., OCJRC Director, at Christopher.Hill@ocjrc.net.

Corrections Reform Legislation

Acts 81 and 83 of 2008 mandated the Pennsylvania Commission on Sentencing to develop parole guidelines for consideration by both the Board of Probation and Parole and county paroling authorities. Additionally, re-commitment ranges and resentencing guidelines are to be developed. This is a long-term, complex initiative as not only must the current practices and policies be documented, but best practices and evidenced-based research and policies must be incorporated and public safety, and victim impact must be considered. The Acts also require the Commission to collect data and information, monitor compliance, and to report on same. The Commission, therefore, has created five work groups to delve further into these issues. They include county parole; state parole; sentencing and resentencing; research; and data collection and application development.

New Members

The Corrections Reform package that was enacted last September 2008, provided for three ex-officio, non-voting members to promote system-wide policy discussions: the Secretary of Corrections, the Parole Board Chairman, and the state Victim Advocate. Additionally, in April 2009, two new members were appointed to the Commission: Judge Jill E. Rangos (Allegheny County) and Judge Harold F. Woelfel, Jr. (Snyder and Union Counties).

Information Access

The Commission's Information Access Unit has responsibility for providing sentencing reports, data and data sets, analyses and information to a wide range of users that include the state legislature and other state agencies, criminal justice professionals, researchers, the media and the public. Several projects are underway to make sure that the right information is provided to the right user at the right time in the right format.

- ◆ Decision-making support is provided as state legislative committees consider alternative proposals to changes in sentencing-related legislation. Staff provide analyses of the bills / amendments / proposals under consideration in a format that provides clear and concise information regarding each proposal's relative impact on state prison, county jail, intermediate punishment, probation and other restorative sanctions, both in terms of numbers and length of sentence. These analyses are based on simulations of sentencing guidelines.
- ◆ Staff have designed and are well into the development of web-accessible sentencing reports. Currently in "test" phase, users can select reports based upon sentencing year, county (or statewide) and unit of analysis (most serious offense per sentencing event, most serious offense per criminal incident, most serious offense per person, all offenses) -- all without staff intervention. As the project progresses incrementally, there are plans for the expansion of selection criteria (e.g., title and section of statute) and the types of reports and graphics that are made available.

- ◆ As a member of the state's Corrections / Parole Population Projection Committee (CPPPC), staff provide 4-year and 2-year quarterly trend analyses of sentence locations and lengths and are pursuing further statistical analysis (e.g., Auto-Regressive Iterative Moving Averages, or ARIMA) of multiple years of data to assist in the projections work of the CPPPC.
- ◆ Efforts have been made to provide researchers who use annual sentencing data sets with clear and concise documentation of sentencing data beyond the provision of codebooks. A brief document, "Understanding and Using Pennsylvania Sentencing Data," begins to bridge the gap between data sets and codebooks on the one hand and sentencing guideline manuals on the other.

Research

The Commission currently has five research projects underway. Highlights from three of projects are included below.

2009 Legislative Report on Pennsylvania's Motivational Boot Camp Report: The Impact of Program Completion on Recidivism

Act 215 of 1990, which created Pennsylvania's Motivational Boot Camp Program, also mandated the Pennsylvania Commission on Sentencing to evaluate the program and provide a report to the House and Senate Judiciary Committees. The 2009 Legislative Report examined, for the first time, whether program completion impacted offender recidivism. Major findings from the study include: 1) The Boot Camp has a high graduation rate, with about 93% of the offenders in our study graduating from the program, 2) Offenders were less likely to complete Boot Camp if they were female, young, had a greater number of prior arrests, had lower expectations for personal change, had difficulty controlling their temper, and found complicated tasks to be more challenging, 3) About 52% of Boot Camp graduates in our study recidivated within two years, with 20% being recommitted for a technical violation and 32% arrested for a new crime, 4) While offenders who completed Boot Camp were less likely to recidivate, this finding was not significant at the multivariate level, 5) Offenders were significantly more likely to recidivate if they were: male, young, non-white, unemployed, less educated, property offenders, incarcerated as a juvenile, and repeat offenders, 6) Additionally, those who were more likely to indicate temper problems, a need for substance abuse treatment, and that they came from a less close-knit family were more likely to recidivate.

Economic Sanctions Project

Act 37 of 2007 directed the Commission to adopt guidelines for fines and other lawful economic sanctions, as well as prescribe community service alternatives. These alternatives became effective December 5, 2008. In conjunction with this effort, the Commission undertook a long-term research project to study the current economic sanction practices across Pennsylvania, their relative use based on the nature of offense and sentence imposed, and the outcomes in terms of collections and public safety. The study is based upon an analysis of data from the Administrative Office of Pennsylvania Courts and the Pennsylvania Commission on Sentencing for the years 2006 and 2007.

Thus far, there have been four major findings from the study. First, there is a very large number of economic sanctions imposed in Pennsylvania and together they total a great deal of money. Over the two years that were studied, there were almost 5.6 million economic sanctions imposed from 2,629 different categories, and together they totaled more than \$626 million. The 15 sanctions most often imposed accounted for about 3.3 million of the economic sanctions (55%) and totaled more than \$411 million. Second, there is substantial variation between counties in the imposition of economic sanctions. Counties varied in the number of different economic sanctions they imposed, from as few as 40 to as many as 147. Populous urban counties, counties with more Hispanics, and wealthier counties were likely to impose more economic sanctions. Third, there is substantial variation between individuals in the imposition of economic sanctions. The fewest number of different sanctions imposed for a single offense was 15, and the largest number of different sanctions imposed for a single offense was 200. On average, a single offense was likely to receive 42 different sanctions. The average total amount of sanctions imposed for an offense across all cases was \$610, although the range was from \$0 to \$250,518. Fourth, although the total amount of all economic sanctions together is very large, the average amount for most economic sanctions is relatively small. Two-thirds of all economic sanctions are for amounts less than \$30, and about three-quarters of all types of economic sanctions are for amounts less than \$50. In particular, county fines are for relatively small amounts; about 97% of all county fines are for less than \$100.

Mandatory Sentencing Project

House Resolution 12, which passed on October 16, 2007, directs the Sentencing Commission to "conduct a study on the use and impact of mandatory minimum sentences." Thus far, the Commission has completed the following interim reports: 1) The Frequency of Mandatory Sentencing, 2) The Processing of Mandatory Minimum Sentencing Cases: Preliminary Findings from a Survey of Judges, District Attorneys, and Public Defenders, 3) The Public's Knowledge of Mandatory Minimum Sentencing, 4) Findings from the Legislative Survey, 5) Offender Survey on Sentencing, 6) Trends in the Sentencing of Drug Delivery, Firearms, and Repeat Violent Offenses: 1990-2007. Currently, there is a study underway to examine the impact of mandatory sentencing on recidivism. A final report on the project will be provided to the legislature in October 2009.

2008 Annual Report

The Commission's 2008 Annual Report will be posted on its web site in June 2009 at www.pasentencing.us. It will only appear in electronic print this year. The report will provide information on the Commission's activities during 2008 and a review of sentencing practices and aggregate statewide sentencing data on the 145,912 offenses reported to the Commission during the same calendar year.

The Virginia Criminal Sentencing Commission has been involved in a variety of diverse research projects in recent months. Much of this work has been completed at the request of policy makers, looking to utilize empirical data to guide informed decision making.

At the request of the Virginia State Crime Commission, the Sentencing Commission recently completed a thorough examination of juveniles convicted of felonies in the state's circuit courts. The Crime Commission is conducting a comprehensive review of Virginia's juvenile sentencing system, including laws authorizing the transfer of juveniles to circuit court for trial as adults. To construct a complete picture of juveniles convicted of felonies in Virginia's circuit courts, the Sentencing Commission supplemented its Sentencing Guidelines data with data from other sources, including the Department of Juvenile Justice, the Department of Corrections, the Supreme Court, Pre-Sentence Investigation reports, and local and regional jails. While this work is considered preliminary, the analysis is by far the most comprehensive study of juveniles convicted in circuit courts across the Commonwealth. For the first time, policy makers were able to view information on the total number of juveniles convicted of felonies in circuit court, the characteristics of these offenders, and the dispositions handed down in these cases (juveniles are defined based on age at offense). Between fiscal years 2001 and 2006, the number of juveniles convicted of felonies in circuit court fluctuated between 500 and 600 per year. In fiscal years 2007 and 2008, however, this figure increased to nearly 700 per year. While juveniles as young as 14 years old can be transferred to circuit court, only a few of the juvenile circuit court cases (4%) involved such young offenders. Over half of the cases (56%) involved juveniles who were 17 when they committed the crime. Overall, the most common offense was robbery, which accounted for one-third of the cases.

The Sentencing Commission's study also provides a comprehensive picture of dispositions for juveniles convicted in circuit court. The data compiled and analyzed by the Sentencing Commission indicate that 45% of juvenile offenders sentenced in fiscal years 2001 through 2008 received a prison sentence. Another 30% received a jail sentence or adult probation. Thus, 75% of juvenile offenders convicted of felonies in circuit court received some type of adult sanction. Virginia law permits circuit court judges to utilize juvenile sanctions for these young offenders and, in 25% of the cases, judges ordered a juvenile sanction, ranging from commitment to the state's Department of Juvenile Justice to juvenile probation. A small number of these offenders received a "blended" sentence, meaning they will serve the first part of their sentence with Juvenile Justice and the remainder of their term in the adult prison system. The Crime Commission will conclude its review of the juvenile sentencing system by December 2009 and will make recommendations to the next legislative session, which begins in January 2010.

The Sentencing Commission is also assisting another group of policy makers. Earlier this year, the legislature directed the Governor's Secretary of Public Safety to convene a task force to examine the feasibility of expanding alternative sanctions for nonviolent offenders. This task force includes judges, prosecutors, agency directors, sheriffs, jail superintendents, police chiefs, budget analysts, and staff of the legislative money committees. The Sentencing Commission's director has also been tapped to serve on this task force. The Public Safety Secretary has engaged the Pew Foundation and the Vera Institute of Justice to assist in this effort. During its first meeting, the task force heard presentations on the state's fiscal picture and the current prison and jail population forecasts, as well as the status of community corrections in Virginia. As Virginia is currently the only state to explicitly incorporate offender risk assessment into sentencing guidelines, the Sentencing Commission's director gave the task force an overview of current sentencing practices and the use of the integrated risk assessment tool. During the second meeting of the task force, members heard presentations from national experts, including Roger Warren (President Emeritus of the National Center for State Courts) and Dr. Edward Latessa (head of criminal justice at the University of Cincinnati). The Task Force will continue to meet during the summer and fall. Recommendations will be presented to the legislature in time for its next session. In addition to having representation on the task force, the Sentencing Commission will continue to provide technical assistance as requested.

In response to another legislative directive, the Sentencing Commission is currently examining parole-eligible inmates remaining in the state's prison population. Although parole was abolished in Virginia for felonies committed on or after January 1, 1995, offenders serving a prison term for crimes committed prior to that date remain eligible for parole release. The purpose of the study is to determine the number of parole-eligible offenders in prison who have already served or will, within the next six years, serve an amount of time in prison equal to or greater than the amount of time recommended by the current sentencing guidelines system. The Sentencing Commission has identified 3,815 parole-eligible prison inmates to examine. These inmates will be scored on the current sentencing guidelines using electronic Pre-Sentence Investigation (PSI) reports, whenever available. It is estimated that approximately two-thirds of the inmates will have an electronic PSI. For the remaining inmates, automated data provided by the Parole Board will be used to score the inmate. When automated data is ambiguous or incomplete, the Sentencing Commission can refer to text descriptions of the offense and the inmate's criminal history, which have been provided by the Parole Board. Once the process of guidelines scoring is complete, each inmate's time-served in custody will be compared to the guidelines midpoint recommendation, as well as the low and high ends of the guidelines range. The Sentencing Commission's report is due to the legislature by September 1, 2009.

Finally, data collection is continuing for the Sentencing Commission's study of crimes committed in the presence of children. Noting that children are potentially harmed by witnessing crime and that judges may take this into account when deciding the appropriate punishment for an offender, Sentencing Commission members agreed that the study could provide useful information regarding judicial departures from the guidelines. The goal of the study is to identify crimes witnessed by children, to describe the nature of such crimes, and to determine how courts respond to and utilize information concerning the presence of children during the commission of the crime when sentencing the offender. Although several approaches for identifying cases with child witnesses were explored, no existing data sources were adequate for efficiently detecting cases for inclusion in the study. The Sentencing Commission then contacted prosecutors across the Commonwealth and asked for their assistance in identifying cases that meet the study's criteria. Prosecutors are able to enter the offender's identifying information into a very simple electronic form on the Sentencing Commission's website and electronically transmit it for data storage and analysis. Sentencing Commission staff will research the details of each case and record pertinent information for each sentencing event. The data collection phase of the project may last for several months, in order to allow a sufficient number of cases to accumulate. A progress report will be released later this year.

NASC Contact List

Alabama Sentencing Commission

Lynda Flynt, Director
300 Dexter Ave Suite 2-230
Montgomery, AL 36104-3741
Telephone: 334.954.5096
lynda.flynt@alacourt.gov
<http://sentencingcommission.alacourt.gov>

Alaska Judicial Council

Teri Carns, Senior Staff Associate
1029 W. Third Avenue, Suite 201
Anchorage, AK 99501
Telephone: 907.279.2526
teri@ajc.state.ak.us
<http://www.ajc.state.ak.us>

Arkansas Sentencing Commission

Sandy Moll, Executive Director
101 East Capitol, Suite 470
Little Rock, AR 72201
Telephone: 501.682.5001
sandy.moll@mail.state.ar.us
<http://www.state.ar.us/asc>

Delaware Sentencing Accountability Commission

Jennifer Powell, Director
820 N. French St., 10th Floor
Wilmington, DE 19801
Telephone: 302.577.8698
jennifer.powell@state.de.us
<http://www.state.de.us/cjc/sentac.html>

Kansas Sentencing Commission

Helen Pedigo, Executive Director
Jayhawk Tower, 700 S. W. Jackson, Suite 501
Topeka, KS 66603
Telephone: 785.296.0923
helenp@sentencing.ks.gov
<http://www.accesskansas.org>

Louisiana Sentencing Commission

Carle Jackson, Director
1885 Wooddale Blvd, Room 708
Baton Rouge, LA 70806
Telephone: 225.925.4440
carlej@cole.state.la.us
<http://www.lcle.state.la.us>

Maryland State Commission on Criminal Sentencing Policy

David Soulé, Executive Director
4511 Knox Road, Suite 309
College Park, MD 20742-8235
Telephone: 301.403.4165
dsoule@crim.umd.edu
<http://www.msccsp.org>

Massachusetts Sentencing Commission

Francis J. Carney, Jr., Executive Director
Three Center Plaza, 7th Floor
Boston, MA 02108
Telephone: 617.788.6867
Francis.Carney@jud.state.ma.us
<http://www.mass.gov/admin/sentcomm.html>

Minnesota Sentencing Guidelines Commission

Suzanne Alliegro, Executive Director
Capitol Office Bldg, Suite 220, 525 Park Street
St. Paul, MN 55103
Telephone: 651.296.0144
Suzanne.Alliegro@state.mn.us
<http://www.msgc.state.mn.us>

Missouri Sentencing Advisory Commission

Julie Upschulte, Director
P.O. Box 104480
Jefferson City, MO 65110
Telephone: 573.522.5419
julie.upschulte@courts.mo.gov

New Jersey Commission to Review Criminal Sentencing

P.O. Box 095
Trenton, NJ 08625
Telephone: 609.341.2813
<http://www.sentencing.nj.gov>

New Mexico Sentencing Commission

Michael J. Hall, Director
2808 Central Ave. SE
Albuquerque, NM 87106
Telephone: 502.277.3494
nmsencom@umn.edu
<http://nmsc.unm.edu/>

North Carolina Sentencing and Policy Advisory Commission

Susan Katzenelson, Executive Director
P.O. Box 2472
Raleigh, NC 27602
Telephone: 919.789-3684
susan.c.katzenelson@nccourts.org
<http://www.nccourts.org>

Ohio Criminal Sentencing Commission

David Diroll, Executive Director
Ohio Judicial Center
65 South Front Street, 2nd Floor
Columbus, OH 43215
Telephone: 614.387.9305
Dirolld@sconet.state.oh.us

Oklahoma Criminal Justice Resource Center

Christopher Hill, Ph.D, Director
3812 N. Santa Fe, Suite 290
Oklahoma City, Oklahoma 73118
Telephone: 405.524.5900
christopher.hill@ocjrc.net
<http://www.ocjrc.net/home.htm>

Oregon Criminal Justice Commission

Craig Prins, Executive Director
635 Capitol Street NE, Ste 350
Salem, OR 97301
Telephone: 503.986.6494
craig.prins@state.or.us

Pennsylvania Commission on Sentencing

Mark H. Bergstrom, Executive Director
P. O. Box 1200
State College, PA 16804-1200
Telephone: 814.863.2797
mhb105@psu.edu
<http://pcs.la.psu.edu>

Utah Sentencing Commission

Jacey Skinner, Director
Utah State Capitol Complex
E. Office Bld, STE E330 P.O. Box 142330
Salt Lake City, UT 84114-2330
Telephone: 801.538.1031
<http://www.sentencing.utah.gov>

Virginia Criminal Sentencing Commission

Rick Kern, Director
100 N. 9th St., 5th Floor
Richmond, VA 23219
Telephone: 804.225.4398
rick.kern@vcsc.virginia.gov
<http://www.vcsc.virginia.gov>

Washington Sentencing Guidelines Commission

Jean Soliz Conklin, Executive Director
4565 7th Avenue SE, P.O. Box 40927
Olympia, WA 98504-0927
Telephone: 360.407.1050
jeans@sgc.wa.gov
<http://www.sgc.wa.gov>

Vermont Sentencing Commission

Michael R. Kainen, Executive Director
82 Railroad Row
White River Jct., VT 05001
Telephone (802) 281-5261
Michael.Kainen@state.vt.us

District of Columbia Sentencing Commission

441 Fourth Street, N.W., Suite 830 S.
Washington D.C. 20001
Telephone: 202.727.8821
<http://www.scdc.dc.gov>

United States Sentencing Commission

Judith W. Sheon, Staff Director
One Columbus Circle, NE Suite 2-500
Washington, D.C. 20002
Telephone: 202.502.4510
<http://www.uscc.gov>



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