



# Monitor

## Recent Commission Activities and Decisions

The Commission met at The Union League of Philadelphia on December 5 & 6, 2000 for its final quarterly meeting of 2000.

### Presentations & Tours

The Commission received briefings from Philadelphia Municipal Court President Judge Louis Prezenta on the structure and operations of the Municipal Court, the Treatment Court, and the Community Court initiative. Members and staff also toured ASPIRE at Station House, a facility operated by the Volunteers of America under contract with the PA Department of Corrections (DOC) for reintegration of offenders, particularly Boot Camp graduates, following incarceration.

### Budget & Management

The Commission formally approved a PCCD applica-

tion for NCHIP funding to re-engineer and web-enable the sentencing guideline software (SGS) application. The Commission also agreed to assume responsibility for the CCAP Project Management Solution for DSI/CDI Users (Live Post) DCSI grant upon completion of an Agreement and Novation.

### Data & Field Services

The Commission approved the revised *Release of Information Policy* document and related protocols. They also reviewed and offered comments on several supplemental guideline sentence forms developed to address reporting concerns discussed during recent meetings. The matter was referred back to the Data & Field Services Committee for minor modifications and external review. Final drafts will be presented at the February meeting.

### Research

The Research Committee distributed a report on the Guidelines Evaluation Project and provided an update on two other projects. (See related article on Page 2.)

### 2001 Meeting Schedule

The Commission adopted the following meeting schedule for 2001:

**Feb. 6-7 (Harrisburg)**  
**May 8-9 (Harrisburg)**  
**Sept. 11-12 (State College)**  
**Dec. 4-5 (Philadelphia)**

The Commission generally holds a public work session Tuesday evening beginning at 7:30 p.m. The Quarterly Commission Meetings are held Wednesdays beginning at 9:00 a.m. All Commission meetings are advertised in advance in the *Pennsylvania Bulletin* and are open to the public.

## Commission Resumes Quarterly Publication of the Monitor

During the August 9, 2000 Commission Meeting, members voted to resume regular publication of the *Monitor*, the Commission's newsletter. The *Monitor* will be published on a quarterly basis, beginning with this issue, and will include topical sentencing-related informa-

tion, a schedule of upcoming guideline training sessions, and a summary of issues discussed and decisions made during the preceding Commission Meeting. The *Monitor* will be mailed free of charge to criminal court judges, criminal justice agencies, members of the

General Assembly, local bar associations, the news media and other interested parties. If you wish to be added to the mailing list or wish to suggest topics for upcoming editions, please contact the Commission. (See contact information on Page 4.)

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### **2001 Guideline Training Sessions**

*Wednesday, February 14 (Harrisburg)*  
*Wednesday, April 11 (State College)*  
*Wednesday, June 6 (Malvern)*  
*Wednesday, August 8 (Location TBA)*  
*Wednesday, October 10 (Location TBA)*  
*Wednesday, December 12 (Location TBA)*

These six-hour sessions (8:30AM-4:00PM) are CLE-approved and free of charge, although advance registration is required.

## Revised Release of Information Policy Approved

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On February 24, 1999, the Commission adopted a *Release of Information Policy* that provided procedures for the release of sentencing data sets, standard reports, and custom reports. On August 9, 2000, the Commission adopted, by a vote of 8-2, several changes that, among other things, expand the information available through the general release data, and modify certain standard reports. The Commission formally approved the revised written policy during its December 6, 2000 meeting.

Approved are the following changes related to reports and fee structure:

- continue to report on most serious offense per criminal incident or transaction;
- include race and gender in standard report 5 (SR-5);
- custom reports that are simply variations on standard reports 1 through 4 can be approved by the Data & Field Services Committee and acted upon

prior to notification of the entire Commission;

- county offices will not be charged for standard reports, but will be charged for custom reports;
- the fee structure for Annual Reports is as follows: do not charge government offices for annual report, first copy of annual report is free to anyone, \$3.00 charge for subsequent copies to recoup printing and postage costs;
- the charge for a second or subsequent custom report will be the same as was charged to the original requester;
- staff should only provide the county contextual information received from counties; and
- staff should not release any non-sentencing data without prior approval of the Data and Field Services Committee Chair.

The Commission also approved the expansion of the general release dataset, to include

judge name and defendant name, but to continue to exclude defendant social security number. Due to concerns raised regarding the unreliable nature of the defendant name, the Commission directed staff to include a disclaimer similar to the following found in the *Annual Report* with all releases of sentencing data:

*The information presented in this report is based exclusively on sentences reported to the Commission. As a result, the accuracy and completeness of the data are directly related to the quality of the information submitted to the Commission. More detailed information is available from the Commission under the Release of Information Policy. The most detailed and reliable information on any sentence imposed is the official criminal court record available in the county clerk of courts office.*

A copy of the revised *Release of Information Policy*, including protocols and order forms, is available at <http://pcs.la.psu.edu>.

## Verification Process Underway with 1999 Sentencing Data

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A brief summary of each Pennsylvania criminal court judge's 1999 sentencing data will be mailed to him or her by mid-January, 2001. Judges will then have the opportunity to request their entire sentencing data for review. Those judges requesting their entire sentencing data will be mailed these reports by early February, 2001. The deadline for reviewing, verifying and returning the reports is anticipated

to be mid-March, 2001. It is important to note that the 1999 sentencing reports reflect the total number of offenses by each judge, whereas the 1998 sentencing reports reflected only the most serious offense per criminal incident.

Also by mid-January, the President Judge of each county will be mailed a summary report identifying the reporting judges in his

or her county, along with the total number of guideline sentence forms that each of the judges sent to the Commission. The President Judge will also be requested to provide any county contextual information that would assist users in interpreting and understanding the county's sentencing data. Any questions about this data verification process may be directed to Joan Lisle, Field Services Manager at (814) 865-8213.

## Web-Enabling Project Approved

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Data collection is a mission-critical function of the Commission, since sentencing data are used to support the development of the sentencing guidelines and to guide Commonwealth sentencing policies. In order to reduce errors at the source, the Commission released the Sentencing Guidelines Software (SGS) in October of 1998. This application assists users in calculating sentence recommendations and prints a facsimile Guideline Sentence Form for use by the court and for forwarding to the Commission. During its December meeting, the

Commission formally requested NCHIP funding to support the web-enabling of the sentencing application. This expanded application, SGS/Phase II, will allow the reporting of sentences to the Commission electronically. As presently envisioned, the Commission will develop an e-commerce (web-based) application to replace and expand the current 'compiled and distributed' application. Registered users will be able to access the SGS/Phase II application in a secure manner via JNET technology.

Related to this web-enabling project, the

Commission is using its membership on the JNET Steering Committee to work more closely with other state agencies to facilitate data sharing. Commission staff have been working with the AOPC and the PSP to improve the quality of disposition data that will be reported through the Live Post project. Additionally, upon completion of SGS/Phase II, the Commission will provide AOPC with enhanced offense-specific sentencing information, which in turn will be provided to PSP for posting in the CCHRIA repository.

# Commission Research Projects

The Commission's Research Unit is presently engaged in three research projects: a *Boot Camp Evaluation Project*, a *Restorative Sanction/Restitution Project*, and a *Sentencing Guidelines Evaluation Project*. A brief overview of each project is provided below. When each is completed, final reports will be published by the Commission.

## **Boot Camp Evaluation Project**

Act 1990-215 mandates the Commission to monitor and evaluate the Boot Camp program annually. The current study includes three phases. Part I describes the flow of offenders who are statutorily eligible for Boot Camp, recommended for the Boot Camp, and admitted into the Boot Camp. The 2000 Report will include offenders eligible, recommended, and admitted into Boot Camp from 1992 through 1998. Part II provides findings from a recidivism study of Boot Camp offenders, and includes Boot Camp graduates from 1996 and 1997 and a comparable group of offenders released from prison during those two years. Recidivism is analyzed, based on PBPP data, with respect to both technical violations and new crime convictions. Part III involves a survey of Boot Camp offenders to measure attitudinal and behavioral changes that may occur as a result of their Boot Camp experience and to see if any of these changes might be related to recidivism reduction.

## **Restorative Sanction/Restitution Project**

This project examines the use of restorative sanctions with a particular emphasis on restitution. Phase I of the study involves data collection from court and probation records in seven counties (Allegheny, Blair, Centre, Dauphin, Erie, Montgomery, and Philadelphia), which will provide a representative statewide sample. Phase II of the study will examine the use of restitution in all 67 counties from 1994 and 1996-1998. As of December 2000, the site visits to Centre, Blair, Erie, Dauphin, and Allegheny counties were completed. Another objective of the study is to obtain victims' perceptions about their experiences with the criminal justice system, particularly as related to a victim's experience with the determination and collection of restitution. A second survey of judges, prosecutors, defense attorneys, and probation officers has been developed to elicit further information on the imposition of restitution. Finally, the project team is collecting additional information on two issues that have important implications for the accuracy of correctional impact analysis and for assessing guideline compliance: the amount of time served for county jail sentences, and the imposition of consecutive versus concurrent sentences.

## **Sentencing Guidelines Evaluation Project**

Pennsylvania's sentencing guidelines pro-

vide the most extensive sentencing discretion of any guideline system. The guidelines have the widest ranges of any state sentencing guideline system, and no limits are placed on the types of factors that judges might consider when departing from the guidelines. Recently, the Commission observed that departures from the guidelines are often the rule rather than the exception. Serious violent offenders were the targets of recent revisions (1994, 1997) to the guidelines, yet departures from these revised guidelines were so numerous that the Commission questioned whether the changes were effective in changing sentencing practices. This project studied departures for serious violent offenders by analyzing the Commission's 1996-1999 sentencing data, trying to identify factors that differentiated departures below the guidelines from conforming sentences. In addition, interviews regarding particular sentences imposed for 'three strikes' offenses were conducted with judges in ten counties where the majority of departures occurred. Analyses of the quantitative data revealed that those offenders who were identified as the most serious were most likely to get a departure sentence below the guidelines. The qualitative analysis found that the dominant reason provided by judges for a departure sentence was negotiated plea agreements.

## Key Sentencing-Related Decisions (Sept.-Dec. 2000)

### **Sentencing Guidelines**

*Com. v. Johnson* (758 A.2d 1214)

*Com. v. Hernandez* (755 A.2d 1)

### **Mandatory Sentences**

*Com. v. Butler* (760 A.2d 384)

*Com. v. Vasquez* (753 A.2d 807)

*Com. v. Campbell* (758 A.2d 1231)

*Com. v. Hernandez* (755 A.2d 1)

### **Other Sentencing Issues**

*Com. v. Fisher* (752 A.2d 921)

*Com. v. Sierra* (752 A.2d 910)

*Com. v. Williams* (753 A.2d 856)

*Com. v. Smith* (757 A.2d 354)

*Com. v. Murgallis* (753 A.2d 870)

*Com. v. Santone* (757 A.2d 963)

Fact that defendant repeatedly hit victim on head with handgun and kicked him while shouting profanities and demanding and seizing valuables, and caused bodily injury to victim and psychological injuries to victim and to his wife who witnessed the events were sufficient reasons for imposing sentences for robbery and aggravated assault that greatly exceeded the aggravated range of the sentencing guidelines.

*Com. v. Hernandez* (755 A.2d 1)

## Sentencing Guidelines Q&A...

### **Topic... Offense Gravity Score**

**What information is necessary to determine the offense gravity score for a conviction offense?**

The statutory citation (title, section and subsection) and grading of the conviction offense. Based on this information, consult the listing in the 5th Edition Guideline Manual, §303.15. (Also see: 5th Edition Guideline Manual, §303.3(a), page 85).

**How is the offense gravity score determined when the conviction offense is not listed in the Guideline Manual?**

There are several reasons that an offense is not listed at §303.15 (e.g., offense took effect on or after printing of 5th Edition; uncommon offense). In these cases, use omnibus offense gravity score based on grade of the conviction offense (See: 5th Edition Guideline Manual, §303.3(f), page 101). The 1998 Annual Report includes a listing

of new/modified offenses enacted 1997-1999 and OGS assignments; this Monitor includes offenses enacted in 2000.

**How many OGS assignments can a conviction offense have?**

Each conviction offense is assigned one OGS, however, certain offenses are sub-categorized based on particular circumstances. (See: 5th Edition Guideline Manual, §303.3(b), page 89).

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The Pennsylvania Commission on Sentencing is an agency of the General Assembly located on the University Park campus of the Pennsylvania State University. The Commission was created in 1978 for the primary purpose of creating a consistent and rational statewide sentencing policy to promote fairer and more uniform sentencing practices.

The *Monitor* is a quarterly publication of the Commission. All inquiries should be directed to the Commission at the address or numbers listed above.

## Legislation from 2000 Session of the General Assembly

TITLE/SECTION	OFFENSE	OLD	NEW	1997 OGS	2000 SESSION	EFFECTIVE DATE
<b>18/910</b>	<b>Devices for theft</b>				<b>Act 2000-64</b>	<b>Jul 21, 2000</b>
(b)(1)	- first offense	M1	M1	3		
(b)(2)	- second offense	F3	F3	5		
(b)(2)	- 10-50 devices	M1	F3	[Omnibus] 5		
(b)(3)	- third or subsequent offense	F3	F2	[Omnibus] 7		
(b)(3)	- more than 50 devices	M1	F2	[Omnibus] 7		
<b>18/3124.2</b>	<b>Institutional sexual assault</b>	<b>M1</b>	<b>F3</b>	<b>[Omnibus] 5</b>	<b>Act 2000-12</b>	<b>May 10, 2000</b>
<b>18/3933</b>	<b>Unlawful use of computers</b>				<b>Act 2000-24</b>	<b>Jul 25, 2000</b>
(a)(4)	- scheme to deny access	new	M1	[Omnibus] 3		
(d)	- restitution			Mandatory restitution		
<b>18/4120</b>	<b>Identity theft</b>				<b>Act 2000-21</b>	<b>Jul 21, 2000</b>
(c)(1)	- first offense	new	M1	[Omnibus] 3		
(c)(1)	- second or subsequent	new	F3	[Omnibus] 5		
(c)(2)	- first offense, 60 yrs. +	new	F3	[Omnibus] 5		
(c)(2)	- second or subseq., 60 yrs. +	new	F2	[Omnibus] 7		
<b>18/5511</b>	<b>Cruelty to animals</b>				<b>Act 2000-80</b>	<b>Dec. 18, 2000</b>
(a)(2.1)(l)	- killing, maiming, poisoning	M2	M1	[Omnibus] 3		
<b>18/5903</b>	<b>Obscene materials</b>				<b>Act 2000-25</b>	<b>June 13, 2000</b>
(a.1)	- electronic dissemination	new	M1	[Omnibus] 3		
<b>18/6320</b>	<b>Sexual exploitation of children</b>	<b>new</b>	<b>F2</b>	<b>[Omnibus] 7</b>	<b>Act 2000-14</b>	<b>July 10, 2000</b>
<b>18/7508</b>	<b>Drug trafficking sentences</b>			<b>Mandatory sentence</b>	<b>Act 2000-41</b>	<b>Aug. 21, 2000</b>
<b>42/7002</b>	<b>Ignition interlock/DUI</b>			<b>Mandatory system</b>	<b>Act 2000-63</b>	<b>Sept. 30, 2000</b>
<b>42/9712-9714</b>	<b>Crimes of violence</b>			<b>Expanded list</b>	<b>Act 2000-18</b>	<b>July 10, 2000</b>
<b>42/9720.1</b>	<b>Restitution for identity theft</b>			<b>Expanded restitution</b>	<b>Act 2000-63</b>	<b>July 21, 2000</b>
<b>42/9795.2</b>	<b>Megan's Law registration</b>				<b>Act 2000-18</b>	<b>July 10, 2000</b>
(d)(1)	- failure to register (10 yr.)	F3	F3	6		
(d)(2)	- failure to register (lifetime)	F3	F1	[Omnibus] 8		
<b>42/9796</b>	<b>Megan's Law verif. of residence</b>				<b>Act 2000-18</b>	<b>July 10, 2000</b>
(e)(1)	- failure to verify (10 yr.)	F3	F3	6		
(e)(2)	- failure to verify (lifetime)	F3	F1	[Omnibus] 8		