

**MINUTES
NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
MEETING**

March 2, 2018

The North Carolina Sentencing and Policy Advisory Commission met on Friday, March 2, 2018, at the North Carolina Judicial Center in Raleigh, North Carolina.

Members Present: Chairman Charlie Brown, Art Beeler, Lisa Costner, Senator Warren Daniel, Louise Davis, Representative John Faircloth, Willis Fowler, Judge Keith Gregory, Chief Tammy Hooper, Susan Katzenelson, Honorable Maureen Krueger, Senator Floyd McKissick, Dr. Harvey McMurray, Representative Allen McNeill, Luther Moore, Judge Fred Morrison, Honorable June Ray, Jim Toms, Honorable Thomas “Tommy” Thompson, Judge Reuben Young, and Judge Valerie Zachary.

Guests: Elliot Abrams (NCAJ), Danielle Elder (AG), Meagan Honnold (OSBM), Jamie Markham (UNC SOG), W. David Guice (former Commissioner), Robert Montgomery (former Commissioner), Terrence Mitchell (NCCU), Charles Hinton II (NCCU), Beatrice Beaubrun (NCCU), Aspyr Kennedy (NCCU), Jennifer Bedford (NCGA), and Augustus Willis (NCGA).

Staff: Michelle Hall, John Madler, Ginny Hevener, Tamara Flinchum, Rebecca Dial, John King, Jennifer Wesoloski, Becky Whitaker, and Shelley Kirk.

**INTRODUCTION AND RECOGNITION OF NEW AND OUTGOING
COMMISSIONERS**

Chairman Brown called the meeting to order at 10:00 a.m. Members and guests introduced themselves.

Chairman Brown introduced two new Commissioners: Chief Tammy Hooper, representing the NC Association of Chiefs of Police, and Judge Reuben Young, representing the Department of Public Safety.

Chairman Brown read a Resolution honoring outgoing Commissioner Robert Montgomery and called for a motion to adopt. Luther Moore moved to adopt the Resolution; the motion was seconded and carried. Mr. Montgomery made parting remarks.

Chairman Brown read a Resolution honoring outgoing Commissioner W. David Guice and called for a motion to adopt. Mr. Moore moved to adopt the Resolution; the motion was seconded and carried. Mr. Guice made parting remarks. Senator McKissick and Representative McNeill also expressed appreciation for Mr. Guice’s service.

Chairman Brown presented the minutes from the December 1, 2017, Sentencing Commission meeting. Mr. Moore moved to adopt the minutes as presented; the motion was seconded and carried.

Chairman Brown announced the next meeting dates: March 23 for the Justice Reinvestment Implementation Evaluation Report Subcommittee, May 11 for the DWI Sentencing Subcommittee, and June 8 for the Sentencing Commission. He reviewed the agenda for the meeting.

COURT STATISTICS – FY 2017

Chairman Brown recognized Rebecca Dial, staff, to present the Structured Sentencing Statistical Report for Felonies and Misdemeanors (*see* Handout). Ms. Dial noted the report is published annually; this report covers convictions from July 1, 2016 to June 30, 2017 (FY 2017). She highlighted ten-year conviction trends and noted that felonies increased 1% this year, while misdemeanors continue to decrease. A number of legislative changes have been made in recent years which contributed to the misdemeanor decline, including the reclassification of a number of misdemeanor offenses to infractions, and changes made to the offense of Driving While License Revoked (DWLR). Ms. Dial reviewed some offender characteristics, including a comparison of the age distribution of felony and misdemeanor offenders in FY 2008 and FY 2017. For both felony and misdemeanor convictions, a smaller percentage of offenders are under 21 years of age than ten years ago and a larger percentage are over the age of 50.

Ms. Dial then shared FY 2017 data on felony convictions (N=28,985) by class, crime type, and punishment imposed, and listed the most common convictions. The median time to sentencing for all felony convictions was 8 months. As intended by Structured Sentencing, the active rate decreases as offense seriousness decreases, while the active rate increases as the offenders' prior record level increases. The average minimum sentence length imposed for active sentences falls closer to the lowest possible minimum sentence than the highest possible minimum sentence. Ms. Dial attributed this to the fact that offenders in the three lowest prior record levels receive a majority of all active sentences and that very few sentences are imposed in the aggravated range. Next, Ms. Dial discussed credit for time served for active sentences, sharing that 87% of offenders with an active sentence receive credit for time served.

Ms. Dial then shifted to information on probation sentences. Probation was imposed in 63% of all felony convictions in FY 2017 and has fluctuated within just a few percentage points over the past ten years. The average probation length decreases as offense seriousness decreases, with offenders convicted of person crimes receiving longer probation sentences on average. The average length of probation for felony convictions was 26 months and 99% of felony probation sentences required supervised probation. In examining five-year trend data for habitual felon convictions, the number of habitual felonies has continued to increase, including by 5.5% the past year. Michelle Hall noted that they expected habitual felon convictions to stabilize but they have not. Chairman Brown asked Maureen Krueger about the use of habitual felonies and what she thought of the pattern. Ms. Krueger responded that it is easier to get a conviction when facing less time. There also could be more who are eligible and qualify for a habitual felony.

Ms. Dial closed the felony portion of her presentation by offering a few key points related to felony convictions. She remarked that the Felony Punishment Chart contributed to stability in sentencing over time; Class H and I felonies accounted for the largest proportion of felony convictions and had the lowest active rates; person offenses were most likely to result in active

sentences, while non-trafficking drug offenses were least likely to result in active sentences; non-active sentences were imposed more frequently than active sentences, while supervised probation was ordered more than unsupervised probation; and habitual felon convictions have increased as felony convictions overall have decreased.

Shifting to misdemeanor convictions (N=94,150), Ms. Dial provided a breakdown by class, prior conviction level, crime type, and punishment imposed. She noted that the overall median months to sentencing for misdemeanors was 4 months, about half the time for felonies. She presented the misdemeanor active rates and average active sentence lengths by crime type. She pointed out that, unlike with felony convictions, the active rates for misdemeanors do not decrease in a stair step fashion as offense seriousness decreases.

Ms. Dial shared the five most common misdemeanor convictions. Chairman Brown asked if the list was consistent for the past five years, to which Ms. Hall responded that it was not because of the change to the Driving While License Revoked offense in 2015. Noting that 5% of misdemeanors are Assault on a Female, Chairman Brown asked Ms. Krueger if Moore County has a dedicated domestic violence court. She answered that they do not, they find a private warrant works better for them. The Victim Witness Coordinator coordinates with the officers' court dates and they are able to address the issue at first appearance. Lisa Costner noted that they have a "no drop" policy for domestic violence, though it could possibly be deferred. Elliot Abrams commented that Wake has a dedicated domestic violence court and it has high conviction rates. Chairman Brown asked Chief Hooper about the number of calls for service related to assault on a female that are domestic violence. Chief Hooper replied that it is a very regular call and that simple assaults are second most common after larceny. She also mentioned the interaction with the Family Justice Center for her area. Mr. Abrams noted that while domestic violence account for part of Assault on a Female convictions, sex offense cases also get pled down to Assault on a Female. Senator McKissick commented that in the Durham Domestic Violence Court some offenders may be able to get into programs and avoid conviction; this may be due to having private counsel. Chairman Brown noted a change in trends, commenting that ten years ago, domestic violence cases were not getting as many convictions.

Ms. Dial stated that the active rate has increased approximately ten percentage points over the past ten years, which can most likely be attributed to active punishments stemming from credit for time served sentences. In FY 2017, 66% of all active sentences for misdemeanor convictions were credit for time served sentences – a percentage that has been steadily increasing since FY 2008 (46%). She added that the 10-year average credit for time served when the credit is equal to or greater than the active sentence was 22 days. Mr. Abrams commented that the increase in time served sentences is an argument for bail reform, noting that while it might be quicker to dispose of a case with a time served sentence, there are negative consequences. Chairman Brown acknowledged that with Justice Reinvestment probation enhancements, some offenders stay in jail and get credit for time served rather than get out and have to be on probation. Art Beeler added that some offenders ask for a higher bail so a bondsman will not service them. Louise Davis wondered if there is a difference in credit for time served between counties with pretrial programs and counties without. Representative McNeill commented that Randolph County has a pretrial program. Overcrowding can be an issue and the county calls attorneys. Chairman Brown responded that in Rowan County, inmates meeting certain criteria are put on the docket by the jail

administrator. Mr. Abrams remarked about the recent 5th Circuit ruling about the Harris County bail system violating the equal protection clause. Ms. Krueger commented that victims are more likely to cooperate if they feel safe.

Ms. Dial noted that sentence lengths increase as both offense seriousness and prior conviction level increase. For non-active sentences, the percentage of convictions where no probation is ordered increases as offense seriousness decreases and the percentage of convictions where supervised probation is ordered decreases as offense seriousness decreases. Ms. Dial concluded the misdemeanor portion of her presentation with a few key points. She remarked that misdemeanor convictions continued to decrease; prior conviction level was more strongly related to the imposition of an active sentence than offense class; the overall active rate has increased over time and this increase can be primarily attributed to an increase in credit for time served sentences; and non-active sentences were imposed more frequently than active sentences, with nearly equal proportions receiving supervised, unsupervised, or no probation.

Ms. Dial then asked if there were any questions about the data presented. Senator McKissick noted his concern about the large percentage of drug convictions and asked if there was a way to know how many were pled down. Ginny Hevener responded that the data does include charge information but there would have to be an assumption as to plea bargains. Ms. Hall added that the data includes only offenses with a conviction; dismissed cases are not captured. Ms. Krueger commented that the information indicates these are repeat offenders for drug and larceny offenses despite the increase in first-offender and diversion programs. Ms. Davis noted the cost of some diversion programs as a possible barrier. Mr. Beeler commented that health care costs for those over 50 years old are three times higher.

PRISON POPULATION PROJECTIONS

Judge Brown then introduced Tamara Flinchum, staff, to review the current prison population projections (*see* Handout). She stated that, pursuant to statute, the projections are prepared annually in conjunction with Department of Public Safety's Division of Adult Correction and Juvenile Justice (DPS-DACJJ). She noted the Commission's prison bed projections are used as the starting point for DPS-DACJJ'S custody level projections.

The prison population is projected to increase from 36,483 to 39,215 across the ten-year projection period – an increase of 7%. The current projection is higher than the previous year's projection except for the first two years, which is consistent with continued declines in criminal justice trends and with decreases in felony convictions over the previous year. Comparing the projected prison population with the capacity estimates provided by Prisons Administration, the projected prison population is projected to be below Expanded Operating Capacity for all but the last three years of the projection. Ms. Flinchum noted that the capacity estimates, as well as the prison projections, exclude probationers who are housed in Confinement in Response to Violation (CRV) Centers. She also reviewed the prison population trends and noted that the prison population is currently around FY 2005 levels.

Susan Katzenelson stated that it is five years post Justice Reinvestment and asked if all of the prison population gains (i.e., reductions) due to its implementation have been realized. Ms. Hall replied that all the legal changes have been implemented and that any future declines would result from something else. Representative Faircloth inquired if staff had examined the relationship between the state's population and the prison population. Ms. Flinchum reported that the growth in the population would be accounted for in the growth rates applied within the model, and Ms. Hall commented that the general population is increasing by 1%, but that percentage varies by age sector. Representative McNeill asked if EOC (Expanded Operating Capacity) should be questioned as the measure for capacity instead of SOC (Standard Operating Capacity). Mr. Beeler replied that those policy decisions were made 20 years ago. Senator McKissick mentioned that those capacity numbers do not take into account the trend of closing prisons in recent years. Addressing the 'Raise the Age' legislation, Ms. Katzenelson inquired if there would be impact from the 16-17 year-olds moving to the juvenile system. Ms. Hall reported that the impact of those youth on leaving the adult system would be very negligible. Senator Daniel asked if the staff can examine the data by custody levels for the past 10 years. Ms. Hevener replied that DPS handles the custody level projections as part of their process. Judge Young stated that there are issues with staffing of prisons, there is an overall 15%-16% vacancy rate and higher rates in the prisons located in rural areas. He further stated that maintaining a safe and secure environment is key.

Ms. Flinchum also described the impact that different offense class groupings have on the prison population. While Class A – D convictions account for 8% of convictions, they comprise over half (52%) of the prison population as a result of their mandatory active sentences and long sentence lengths. Class H-I convictions impact the prison population through their high volume (representing 64% of convictions), but have a limited impact on the prison population (accounting for 21% of the population) due to their lower rate of active sentences (27%) and shorter time served (10 months on average). Judge Young asked if the projections factor in the increasing female population. Ms. Flinchum responded that they do, the Sentencing Commission looks at overall growth while DPS looks at it by gender.

LEGISLATIVE REQUEST

Chairman Brown informed the Commissioners that he had received a letter from Representative McNeill asking the Sentencing Commission to work with the N.C. Sheriffs' Association (NCSA) to do a five year projection of available bed space in the Statewide Misdemeanant Confinement Program (SMCP) (see handout). In the letter, Representative McNeill pointed out that there is currently adequate bed space in the SMCP and that if the population should exceed capacity, the Division of Adult Correction and Juvenile Justice serves as the safety valve and houses the additional offenders. He expressed concern over the strain this might place on the prison system and emphasized the need to be able to plan based on accurate data. This was why he was requesting the projection.

Chairman Brown recognized Ms. Hall, staff, to explain what would be required to perform the study. Ms. Hall stated that there are two components to a population projection: program capacity, that is bed space available, and program population, which would probably be based on population trends. Staff would work with the NCSA, the administrator of the SMCP, to determine

what data is available and what their technology needs would be in order to use that data. The NCSA's current information system is somewhat limited but they are in the process of upgrading it which will result in additional capabilities. Another consideration for this project would be to determine the appropriate methodology. Staff has the capability to develop threshold projections as well as to apply the SAS model. It is not known at this point whether the SAS model would need to be adapted or whether an entirely different methodology would be appropriate. Staff would need to explore this in consultation with the NCSA and Representative McNeill.

Mr. Moore asked whether a similar request had been made to the NCSA. Representative McNeill replied that there had not been a formal request but that he has been in contact with Eddie Caldwell of the NCSA.

Mr. Moore asked what kind of timeframe was contemplated for this project. Representative McNeill said that after his initial request for this project, he spoke with Chairman Brown and Ms. Hall. From there, his request evolved somewhat and at this point he contemplates a legislative request in the short session. He is asking the Commission to send a letter of support for such legislation. The idea is to make this a part of the Commission's annual reports. The Commission already studies prison bed availability and this could be part of that, or it could be separate, but the Commission would regularly provide both projections. Representative McNeill explained that a major reason why the prison population has gone down is because misdemeanants are now being assigned to jails. The SMPC has adequate space now but, going forward, legislators need to know how much bed space is available in county jails. This is important in planning for the future, it provides the information so that the legislature can debate the allocation of beds overall.

Senator McKissick asked if it is known what kind of time and resources will be required to undertake this new work on an ongoing basis. The initial startup would be substantially greater than what it would take to do periodic updates. Ms. Hall responded that staff has not yet had the chance to examine what resources will be needed. Staff will need to investigate that prior to the beginning of the short session in order to have a better idea of the resources required. Staff will also need to look at whether additional funding will be necessary to adapt the SAS model or if current resources will be sufficient. Senator McKissick stated that he understands the need for the data and respects Representative McNeill for bringing the concept forward but that he wants to weigh cost and timing and the greater level of specificity required by this project. He would like to know what the startup process would look like and what it will take to keep the data current and meaningful.

Mr. Beeler asked if the request would include DWI inmates. Representative McNeill replied that he is interested in anyone who takes a bed in the SMCP. He pointed out that the prison population projections showed that prisons are already 11% over the desirable capacity and that in ten years they will be approximately 1,000 beds short of the maximum capacity. He said he is not suggesting that low level felons be housed in the SMCP but that it would be an option as there seems to be a lot of capacity there. That is where SMCP population projections would help inform policy decisions.

Commenting on the methodology issues, Mr. Beeler stated that the average prison turns over once a year, but that the average jail turns over 12 times in one year. He suggested that any

methodology will have to look at turnover rates as much as at stagnant population. That turnover rate is one reason why jail populations have never been studied significantly.

Ms. Katzenelson said that although it might not be appropriate as part of this particular legislative request, the Commission has always wanted to know overall jail capacities. She wondered if the Commission can request that information from counties in order to have a better accounting of all the beds at all the jails. She said that just like with prisons, one has to look at future possible expansions. This is also relevant to the bail issue. Even if the Commission does not take on bail as a topic of study, it will give a picture of the utilization of beds for pretrial use versus for post-sentence use.

Mr. Moore suggested that this would require checking with all 100 counties on an annual basis and asking who is participating in the SMCP and how many beds they allocate to this program. Representative McNeill said that information is already known. Mr. Moore questioned how this project could predict what individual sheriffs will do. Representative McNeill responded that most counties already have an idea of when they will be at capacity and when they will need to build a new jail. He said the NCSA probably knows how many jails are currently being built, what the bed capacities will be, and how many beds will likely be contributed to the SMCP.

Mr. Moore moved that the Commission submit a letter of support to the legislature for a special provision. The motion was seconded and carried.

Senator McKissick asked whether that motion incorporated what Ms. Katzenelson suggested regarding the total capacity of a jails as he understands that to be a different issue. Ms. Hall responded that it may be part of the project or it could be a separate issue. She stated that staff, the Chairman, and Representative McNeill would investigate that in the development of the special provision. Senator McKissick stated he would like to see that information included, if possible.

DWI SUBCOMMITTEE UPDATE

Chairman Brown recognized John Madler, staff, to provide an update on the work of the DWI Sentencing Subcommittee. Mr. Madler informed the members that staff provided the last update at the June 2 Sentencing Commission meeting and that the Subcommittee had met three times since then. He also pointed out that the decisions were tentative because the Subcommittee might revise them as they made subsequent decisions on related issues.

Mr. Madler reviewed the two study requests the Commission received. The first, from the Secretary of DPS and the Chief Deputy Secretary of DACJJ, was to review sentence credit policies for offenders convicted of impaired driving offenses. The second, from the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, was to study sentencing and correctional policies and practices for the impaired driving offenses. Mr. Madler then reviewed the process the Subcommittee developed for performing the study.

Beginning with pretrial issues, Mr. Madler stated the goal of the Subcommittee, make DWI policies swift and certain, and listed the issues they studied. After looking at pretrial resources, the

Subcommittee asked staff to obtain information on the effectiveness of Continuous Alcohol Monitoring and other pretrial resources. The Subcommittee did not make any recommendation on improving the time it takes to get to disposition of a case or on prioritizing cases for disposition. Regarding pleading, the Subcommittee recommended simplifying the reporting requirements for reducing or dismissing a DWI charge, establishing a lesser-included offense for DWI cases, and creating an expunction option for DWI convictions after 3 years. Staff will provide the requested information at future Subcommittee meetings.

Turning to sentencing issues, Mr. Madler stated that the goal was to make DWI policies truthful in sentencing and he listed the issues they studied. He explained that the Subcommittee had made some preliminary decisions but was still exploring the implications of those decisions. Regarding sentence credits, the Subcommittee recommended eliminating good time credits for DWI offenders and making them eligible for earned time credits. The Subcommittee recommended retaining the current statutory sentence ranges but did not make any recommendations regarding resource needs due to the sentence credit proposals. The Subcommittee recommended eliminating discretionary parole release for DWI offenders but did not make any recommendation as to post-release supervision. Finally, the Subcommittee recommended eliminating the requirement that the judge impose a minimum term of imprisonment and instead require that the judge impose a single term.

Mr. Madler then led the Commission through several examples of how offenders convicted of DWI offenses would be sentenced under the proposed changes. He also presented estimates of the impact of the proposed changes on the Statewide Misdemeanant Confinement Program; 544 additional beds in the first year and 795 additional beds in the second year. For comparison purposes, the Program reported a capacity of 1,674 on December 31, 2017, and a population of 1,233; the Program had excess capacity of 441 beds.

Mr. Madler concluded by informing the members that the Subcommittee would continue to look at sentencing issues before turning to the final area of post-conviction issues. The next DWI Sentencing Subcommittee meeting is scheduled for May 11, 2018.

Ms. Katzenelson asked if creating an expunction option would create a constitutional issue, encouraging the defendant to plead guilty even though it might be against their best interest. Mr. Abrams responded that defendants currently receive a harsher sentence for going to trial, this might make a plea more to their advantage.

Senator Daniel stated that the impact estimates were based on current sentencing practices and making the sentences truthful could affect sentences imposed and the potential impact. Ms. Katzenelson pointed out that Structured Sentencing reduced the sentence ranges available to the judge and the tight structure helps control the impact.

Senator McKissick asked if the Subcommittee was going to look at treatment issues. Mr. Madler responded that they would look at treatment under post-conviction issues. Mr. Beeler suggested looking at materials from the Society of Addiction Medicine when discussing treatment.

REPORT ON EMPLOYMENT COLLATERAL CONSEQUENCES

Chairman Brown recognized Ms. Hall to provide an update on the Employment Collateral Consequences Report from the Research and Policy Study Group. Ms. Hall noted the draft report had been circulated by email to the Commission. She reminded Commissioners of the original request to study collateral consequences, made by Art Beeler. She then provided a broad overview of the work that had been conducted on the study which comprised the contents of the report. She then reviewed the definition of collateral consequences, available empirical data, summarized information from an extensive literature review conducted by staff, and reviewed overall key findings from the study (*see Handout*).

Ms. Hall then reviewed the proposals from the Research and Policy Study Group related to the topic. She reminded Commissioners they had reviewed the proposals at its December meeting, had made some changes, and requested staff revise them for the current meeting. The proposals included: (1) Increase awareness of Certificates of Relief through Legal Aid of North Carolina, the NC Bar Association, the Administrative Office of the Courts, and the Department of Public Safety, particularly Probation and Parole Officers and Reentry Councils; (2) Periodically review criminal history restrictions for professional licenses and certifications; (3) The state should exclude convictions for misdemeanor offenses from triggering offenses for employment collateral consequences, unless there is a nexus between the offense and the consequence; and (4) The Commission refers development of a relief mechanism for offenders who receive an adult conviction while 16 or 17 prior to the change in the juvenile jurisdiction age to the Juvenile Jurisdiction Advisory Committee.

Senator McKissick agreed that Certificates of Relief were underutilized. He mentioned a bill that he and Senator Daniel sponsored (Senate Bill 455) which would expand the availability of Certificates of Relief. He moved to amend the Commission's first proposal to add "Increase awareness of" to the beginning and "and support efforts to increase availability of Certificates of Relief" to the end. The motion was seconded and carried.

Ms. Hall informed the members that staff was completing edits of the document and then it would be published.

OVERVIEW OF COMMITTEES WORKING ON LEGISLATIVE INITIATIVES

Chairman Brown recognized Ms. Hall and Mr. Madler to provide overviews of committees that are working on legislative initiatives (*see Handouts*). Ms. Hall began with an overview of the Juvenile Jurisdiction Advisory Committee (Committee). She explained that during the 2017 Session the General Assembly passed the budget bill (Senate Bill 257) which included the Juvenile Justice Reinvestment Act. This Act raises the age of juvenile jurisdiction from 16 to 18. The bill also established the Committee to oversee implementation of the Act. The Committee has 21 members, including the Executive Director of the Sentencing Commission, and is responsible for developing an implementation plan, including cost estimates, and monitoring and reviewing the implementation of the Act and making recommendations as necessary. The bill requires the Committee to produce an interim report to the General Assembly by March 1, 2018, and make subsequent annual reports by January 15 of each year until the Committee terminates on February 1, 2023.

Turning to the interim report, Ms. Hall explained that it was to include the implementation plan and cost estimates, cost estimates for possible staggering implementation of the Act, and recommendations regarding excluding certain offenses from juvenile jurisdiction. The Committee formed three subcommittees to perform the studies. Ms. Hall reviewed the lists of issues assigned to each subcommittee but explained that the subcommittees had not studied all of them yet, they prioritized those issues with fiscal impact. The subcommittees provided information and recommendations back to the Committee and it submitted the interim report to the General Assembly on March 1 (the report is available on the Committee's website). Ms. Hall reviewed the recommendations contained in the Report and concluded with a list of additional issues the Committee has yet to study.

Mr. Beeler asked if the Committee discussed increasing Juvenile Crime Prevention Council funding to handle the 16 and 17 year olds. Ms. Hall responded that they did and that expanded funding was included in the implementation plan in the Interim Report.

Ms. Katzenelson asked if there was any discussion at this point of repealing the Act and not raising the age. Senator Daniel responded that, if anything, there could be talk of delaying implementation depending on the cost but that he was not aware of any talk of repealing the Act.

Mr. Madler provided an overview of the Task Force on Sentencing Reforms for Opioid Drug Convictions (Task Force). He informed the Commission that the General Assembly passed two bills in the 2017 Session that addressed opioid misuse, House Bills 243 and 464. The second bill contained a provision which created the Task Force. The Task Force has 22 members, including the Executive Director of the Sentencing Commission, and is tasked with studying and reviewing cases of inmates who are incarcerated solely for convictions of opioid drug offenses that require active sentences under Structured Sentencing; considering how to identify inmates who would be able to successfully reintegrate into society; and developing and considering options for modifying existing statutes. Specifically, the Task Force is instructed to study issues related opioid drug offenses including changing the classification of the offenses, giving judges more discretion for sentencing, reducing the sentences imposed, and establishing an early release process. Mr. Madler explained that the Task Force has not met yet but will have its first meeting March 7, and that it is required to submit an interim report to the General Assembly in the 2018 Session and final report in 2019.

Finally, Mr. Madler mentioned the potential for a Criminal Code Recodification Commission (Commission). Senate Bill 114 was amended in the House to add a provision which would create the Commission. The Commission would consist of 26 members and would produce a new criminal code along with commentary, a conversion table comparing current law and the new code, and an offense grading table based on the recommendations of the Sentencing Commission. Mr. Madler explained that the amended Senate Bill 114 passed the House, the Senate did not concur but it subsequently re-referred the bill to the Senate Committee on Rules. It is not clear whether the bill is eligible for consideration in the 2018 Session but staff will continue to track the bill.

NASC UPDATE

Chairman Brown informed the members that North Carolina would not be hosting the 2018 NASC Conference. Some states still have travel bans in response to House Bill 2. The Ohio Sentencing Commission will host the Conference in Columbus, Ohio.

ADJOURNMENT

Chairman Brown reminded the members that the Justice Reinvestment Implementation Evaluation Report Subcommittee would meet on Friday, March 23, 2018, the DWI Sentencing Subcommittee would meet on Friday, May 11, 2018, and the next full Commission Meeting would be on June 8, 2018. Chairman Brown adjourned the meeting at 3:00 p.m.

Respectfully submitted,

Shelley Kirk
Administrative Secretary