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The Virginia Criminal Sentencing Commission
June 7, 1999
Meeting Minutes

Members Present:
Judge Gates, G. Steven Agee Judge Bach, Jo Ann Bruce, Mark Christie, Frank Ferguson, Judge Honts, Judge Johnston, Lane Kneedler, Judge Newman, William Petty, Reverend Ricketts, Judge Stewart and Bobby Vassar

Members Absent:
Peter Decker, Judge Hudson and Judge McGlothlin

The meeting commenced at 10:05 a.m. and Judge Gates then asked the Commission members to approve the minutes from the last meeting.

Agenda

I. Approval of Minutes

Approval of the minutes from the April 19, 1999 meeting was the first item on the agenda. The Commission unanimously approved the minutes.

The second item on the agenda was a report on Sentencing Guidelines Compliance. Judge Gates asked Ms. Farrar-Owens to discuss this item on the agenda.

0 Sentencing Guidelines Compliance Report

Ms. Farrar-Owens reported that little has changed since our last meeting in terms of compliance. She said, however, that she would report on an interesting pattern that has been developing and that represents a change from what we've experienced the previous three to four years.

She reported on data for the current fiscal year to date (FY1999) and said that overall compliance, compliance by offense group, and compliance in midpoint enhancement cases were all higher than what was reported for FY1998 in our last annual report. Compliance rates, in every respect, are higher this fiscal year than in previous years. She said that she has done a little more investigation into this in an attempt to isolate what factor(s) may be behind the rise in compliance rates.

Overall Sentencing Guidelines Compliance: Ms. Farrar-Owens noted that overall compliance is up from 74.7% in FY1998 to 77.2% so far in FY1999. At the last

Commission meeting she suggested that an increase in compliance rates could be due to the risk assessment instrument that is currently being piloted tested. Pilot testing of the risk assessment began during FY1998, so about half the fiscal year included risk assessment cases from these jurisdictions. Of course, pilot testing has continued throughout FY1999 to date. Risk assessment cases make up 10% of all the cases we have received this year and that represents nearly double the proportion they were of last year's total. She remarked that under risk assessment, if an offender scores 9 points or less, the judge is given a dual recommendation of the traditional incarceration recommendation or an alternative sanction. If the judge does either one of those things, he is considered in compliance. Consequently, it would be expected that our compliance rate would be higher due to the use of the risk assessment instrument. The evidence suggests, however, that there are not enough of these types of cases to account for the increases in compliance.

Compliance by Offense: Ms. Farrar-Owens observed that the three offense groups covered by the risk assessment pilot program - fraud, larceny and drug offenses – have experienced increases in compliance rates. However, she said that the compliance rates for all the offense groups have gone up since FY1998, although for some crime groups the increase is small. Compliance for rape and sexual assault cases have gone up more than 8% between FY1998 and FY1999 to date. Mr. Ferguson asked if the compliance rate has gone up due to the changes the Commission made to the sexual assault work sheet last year. Ms. Farrar-Owens agreed that the Commission's revisions are likely responsible for the increase in compliance in the sexual assault offense group but not in the rape offense group. The Commission did not make any changes to the rape sentencing guidelines.

Compliance by Fiscal Year for Selected Offenses: Ms. Farrar-Owens said that the burglary of a dwelling, drug, rape and sexual assault offense groups have shown the largest increases in compliance. The compliance rate for rape went up to 70% compared to the 62% figure reported at the last meeting.

Compliance by Fiscal Year for Risk Assessment vs. Non-Risk Assessment: Ms. Farrar-Owens noted again the idea that the pilot testing of the risk assessment instrument could be contributing to the increases in compliance that we are seeing at least in terms of larceny, fraud and drug offenses. She observed, however, that this explanation could not explain the compliance increases that are also occurring in other offense groups, including the violent offense groups.

The data indicate that there are simply not enough cases in which the risk assessment instrument recommended an alternative and the offender actually received an alternative to account for the magnitude of increase in compliance that we are observing. She presented a chart of a comparison of non-risk assessment circuits and those circuits participating in

risk assessment pilot testing for FY1998 and FY1999. Over this period of time, the compliance rate for non-risk assessment circuits rose 2.8% and only 1.2% in the risk assessment sites. Thus, the evidence did not support the claim that the observed increases in compliance rates were being driven by the sentencing practices in the pilot risk assessment circuits.

Sentencing Guidelines Compliance by Fiscal Year by Judicial Region: Compliance rates are up in every region in the state except the southwest corner of the state. The compliance rate in southwest Virginia decreased by only one percentage point.

Sentencing Guidelines Compliance by Fiscal Year for Selected Circuits: Ms. Farrar-Owens remarked that five circuits together submit about 1/3 of all guidelines cases. These circuits are Virginia Beach, Norfolk, Newport News, Richmond and Fairfax. Because these circuits are such big contributors to overall compliance, a specific look at compliance in these circuits is warranted. Fairfax is the only risk assessment pilot circuit included in this analysis. Ms. Farrar-Owens presented a chart that revealed higher compliance rates for all five circuits compared to their FY1998 rates. Norfolk and Newport News recently started pilot testing risk assessment but risk assessment cases from these sites were not included in this data.

Sentencing Guidelines Compliance by Drug Court vs. Non-Drug Court: Ms. Farrar-Owens continued by saying that in addition to risk assessment, there is another innovation in the judicial system that has been gaining momentum. That new program is Drug Courts. There are currently six Drug Court programs operating in Virginia's circuit courts. The Drug Courts are in Charlottesville, Roanoke, Richmond, Fredericksburg (Stafford, King George, Spotsylvania), Newport News and Norfolk. Fredericksburg, Newport News and Norfolk are the newest having begun in fall of last year. The Roanoke program, which started in 1995, is the oldest. She displayed a graph that showed a compliance rate comparison of circuits with drug courts and those without drug courts. The compliance rates were equally up in circuits with and without drug courts.

Sentencing Guidelines Compliance by Type of Midpoint Enhancement: Ms. Farrar-Owens said that the rate at which midpoint enhancements are being applied has not changed, and is still about 20%, but compliance rates for all but one of the types of midpoint enhancements have increased. The only compliance rate decrease was for cases involving a midpoint enhancement for a Category II prior record. The biggest jump in compliance rates was found in cases involving an enhancement for the instant offense (60% to over 67%). Forcible rape, forcible sodomy, object penetration and aggravated sexual battery receive this type of midpoint enhancement for the instant offense. For these sex cases involving victims under age 13, the compliance rate has gone up while mitigations went down. Other crimes receiving this type of midpoint enhancement also showed higher compliance rates. Some of the crimes displaying a marked improvement in

compliance rates were malicious wounding, burglary of a dwelling with no weapon, and some of the most common robbery offenses.

Sentencing Guidelines Compliance in Jury Cases: Of the 333 jury cases, jury sentences were within the guidelines 41.1% of the time. Juries imposed sentences higher than the guidelines in 44.5% of the cases and imposed sanctions lower than the guidelines in 14.4% of the cases. Ms. Farrar-Owens observed that judges modified only 22.5% of the jury sentences.

Judge Gates thanked Ms. Farrar-Owens for her presentation. He then asked Ms. Jones to discuss the next item on the agenda, Offender Risk Assessment Project –Data Update.

Offender Risk Assessment Project – Data Update

Ms. Jones began by saying that the risk assessment pilot project has been in progress now for over a year. She reminded the Commission that risk assessment only applies to drug, fraud and larceny offenses within certain judicial circuits. For over a year, the pilot project has been underway in Circuits 5, 14 and 19 and in Circuit 22 for about one year. On March 15th, Norfolk and Newport News started using the risk assessment instrument. The Commission has received 201 worksheets from Norfolk and 89 from Newport News as of May 15th. Ms. Jones said that another 100 cases have been received but not keyed. These cases are not keyed because it takes longer to process and key risk assessment forms because they go through an extensive review. She commented that the Commission was not getting court orders from Norfolk and this was inhibiting the expeditious review of these cases.

Ms Jones presented information on the preparation of the risk assessment forms. In the newly added circuits, Commonwealth's attorneys were preparing the majority of the forms. In the other pilot sites, the majority of the forms were filled out by probation officers because pre-sentence investigations were ordered. In early May, the Commission staff conducted training for Norfolk Commonwealth's attorneys. The attorneys said they are trying to get relevant information for the risk assessment from the booking sheets but that some data is hard to obtain such as employment and marital status.

Ms. Jones then presented a chart that showed convictions by offense type. She expressed surprise by the fact that Newport News risk assessment forms comprised 72% of drug offenses compared to Norfolk's 49%. She noted that 61% of all Newport News drug offense cases were for the possession of a Schedule I or II drug compared to a 27% rate for similar cases in Norfolk. The other pilot sites report a figure very similar to the percentage of Norfolk's possession cases.

Ms. Jones next discussed the percentage of offenders in Newport News and Norfolk that are ruled ineligible for risk assessment because of a violent prior record. She reported that

28% of Newport News risk assessment cases were ineligible due to a category I or II prior record. Ms. Jones noted that this figure could be a reflection that Newport News is doing a thorough record check.

Ms. Jones next turned attention toward some risk assessment evaluation issues. Ms. Jones summarized §53.1-131 of the Code of Virginia that relates to work release. This legislation notes that the court with jurisdiction for the trial of a person charged with an offense may assign him/her to work release program. The sheriff or jail administrator may also assign a person confined to jail to a work release program. In both cases the court is to be notified of the offender's place of employment by the sheriff, jail administrator or program director. The court, in its discretion, may revoke authority for the offender to participate in a work release program. Ms. Jones said the statistics would be altered if work release were not counted as an alternative. If work release were not considered an alternative than fewer cases would be counted as receiving an alternative.

Ms. Jones asked the Commission members to review a handout that was included in their packets. The handout displayed examples of the variation in wording on sentencing orders for judicial use of work release sanctions in the pilot site circuits. She said she would return to the discussion on work release but wanted to first address jail farm cases. Last year, the Commission agreed to count Danville's jail farm as an alternative. Newport News also has a jail farm and the staff thought at first that it should be counted as an alternative as well. However, Ms. Jones noted that when she began to look at the sentencing orders from Newport News that mention the city prison farm she became suspicious that this sanction was not being used in the same fashion as that in Danville. She then spoke with the Chief Judge to find out how their prison farm compared to Danville's. He said that there have been so many executive branch and legislative changes that affect where an offender serves his sentence that the court gave up trying to figure it out.

She asked the Commission to make a decision on if the jail farm in Newport News should be considered an alternative. The Newport News usage of this sanction appears to be different than that in Danville. Ms. Jones made it clear that if prison was recommended then local work release and jail farm would count as an alternative just like a regular jail sentence. She questioned what to do if the recommendation was jail. The staff recommendation would be to only count the jail farm as an alternative when the judge has specifically indicated it somewhere on the form. Judge Gates asked for a motion. The motion was seconded. Judge Bach asked what the difference was between a jail work farm and a city prison farm. Ms. Jones responded that the Newport News city prison farm has alternative programs but is basically a work camp. Reverend Ricketts pointed out that the Danville city farm was much more secure than the Newport News prison farm. Mr. Petty asked who operates these farms. Ms. Jones responded that the city of Newport News operates their city program. Mr. Vassar commented that he felt that the work release situation should be considered an alternative but wondered if this alternative

was considered such by the General Assembly. Mr. Ferguson commented that if an offender received a jail sentence or work release that he didn't see much of a difference. Mr. Ferguson observed that many offenders go through work release on the authority of the sheriff. He said if the Commission decides to count work release as an alternative then it should also consider a city prison farm as an alternative as well. He recommended not to count them as an alternative. Mr. Ferguson commented that the Commission might get inflated numbers if they are counted.

Ms. Jones said the staff has been counting work release when the court order included that sanction. Mr. Ferguson believed that this process would be an artificial way to count it. Judge Honts said that he hardly ever disapproves of work release on a jail sentence. He remarked that the sheriff must screen the offender before they enter the program. Judge Bach agreed with Mr. Vassar's observation that the legislature probably wouldn't consider work release as an alternative and, therefore, the Commission would not be addressing the legislative goal of diverting 25% of incarceration bound felons if work release were being counted. Mr. Kneedler commented that the Commission might be underestimating the number of offenders that are not spending their full amount of time in prison or jail. He said that we should make a note that some offenders on the order of the sheriff will spend time in work release. Mr. Christie pointed out that the General Assembly is primarily focused on what judges are doing with offenders who otherwise would be taking up hard cell space. He noted that the General Assembly would like to know this information for purposes of planning prison space. Judge Gates said that the home electronic monitoring sanction would save cell space but not work release. Dr. Kern said that it is almost impossible to track what the sheriff does with regard to which offenders are placed on work release. Mr. Petty asked how sheriffs count these people in their average daily population reports. Dr. Kern said that it is literally a head count done every Tuesday.

Ms. Jones restated the question of should the staff count as an alternative sanction those situations where the judge cites work release on the form. Judge Gates asked for a motion on this matter and there was none. Instead, Mr. Ferguson made a motion to not consider work release as an alternative to incarceration. A motion to not count work release as an alternative was made and seconded and the motion was approved.

Ms. Jones then continued her presentation by focusing on the drug court program in the risk assessment circuits. The drug court program is new in both Newport News and Norfolk. In both programs, the offenders generally waive their preliminary hearing and plead guilty. She asked the Commission how it would like to proceed with regard to considering the drug court as an alternative. The staff was inclined to recommend that when incarceration is recommended in a drug court case than it should be considered as an alternative.

Judge Gates asked the Commission to vote on the recommendation proposed by Ms. Jones. A motion to count drug courts as an alternative was made and seconded and the motion was approved. Mr. Petty asked if this program was just a different type of intensive probation. Ms. Jones said that, like intensive probation, there is close supervision of the offender in the community. However, drug court offenders are closely monitored by the judge and the offenders are also required to participate in treatment programs. Mr. Petty asked if the Commission would even receive a guidelines form for offenders with a §18.2-251 disposition where final disposition is withheld. Ms. Jones said that she was not sure that these cases involved a guidelines worksheet. Dr. Kern said that the staff had some concerns about tracking some drug court cases when no official conviction was entered on the record. However, he noted that it is still important to have some data system in place to track drug court cases. Dr. Kern said that the staff could always recommend that the probation officers complete sentencing guidelines forms in drug court cases. But, again, he observed that this method might raise some concerns in those drug court programs where the program is a pre-adjudication one. Judge Gates recommended that Dr. Kern confer with Judge Lemon who used to coordinate the Richmond Drug Court Program. Judge Gates asked the Commission not to make a decision on this matter until Dr. Kern speaks with Judge Lemon.

Judge Gates thanked Ms. Jones for her presentation and then asked Ms. Farrar-Owens to discuss the next item on the agenda, Proposed Methodology for the Sex Offender Risk Assessment Study.

3 Sex Offender Risk Assessment Project - Status Report

Ms. Farrar-Owens began by saying that during the last meeting in April, staff proposed a methodology for conducting a study of sex offender recidivism as requested by Senate Joint Resolution No. 333. She said that the Commission members approved that methodology at that time. She said she would like to briefly review the methodology again so that all facets of it are clear. Ms. Farrar-Owens reminded the members that the measure of recidivism to be used in the study was a source of significant discussion during the last meeting. The Commission had approved the use of a new arrest for a person crime, including any arrest for a sexual assault, as the recidivism measure. Because it was the source of much discussion, Ms. Farrar-Owens wanted to take some time to review that decision and to provide the members with some information about the empirical foundation of using new arrest in this particular study. She noted that she would also give an update of where the project stands in terms of the work plan for the project.

The sex offender risk assessment instrument will be applied to offenders convicted of a rape or sexual assault offense. The staff will select a sample of rape and sexual assault offenders from a recent sentencing cohort (cases sentenced for a rape or sexual assault whether as the primary offense or an additional offense). The data comes from the PSI

data base for CY1996-1997. The staff initially talked about using fiscal year files that would include the first half of 1998, but there is such a delay in preparation and submission of PSIs (particularly for post-sentence reports) that the PSI data base is not complete even for the first half of last year.

Ms. Farrar-Owens said that the approved methodology excludes certain crimes such as misdemeanor sex offenses, adultery and fornication crimes that do not involve incest, bestiality, bigamy and cohabitation offenses, and all but one of the prostitution felonies. The study will also exclude non-forcible sodomy between adults when there is no injury. The sample also excludes female sex offenders since there are so few remaining after these offenses are excluded (only about 1.5%).

Ms. Farrar-Owens continued by saying that the Commission approved using a simple random sample. The sample will be slightly larger than would be needed to achieve the statistical confidence because it is anticipated that some pertinent data will be missing in some cases and some offenders' files will be unattainable. In order to have as much information as possible on the cases in the study sample, more detailed information will have to be collected than what is available on the automated PSI. Accordingly, She pointed out that staff will collect hard copies of the original PSIs and other file information for all release cases selected.

Once the sample of sentenced rape and sex assault offenders has been selected, the next step is to carefully match the cases in the sample to similar cases of offenders released from incarceration or given probation during an earlier period. It is these offenders from the earlier period who will be tracked for recidivism.

Staff recommend using FY1990-1993 releases from prison and jail and cases of offenders sentenced to probation/no incarceration in those years. Jail and probation cases will be selected from the PSI database. Prison releases will be selected from Department of Correction's files of inmates released for rape or sex offenses. She said the staff has encountered some difficulty in obtaining this data from DOC. Cases in the study (sentencing cohort) sample will be matched to similar cases in the release cohort based on key case characteristics and sentencing guidelines scoring - to obtain as close a match as possible.

Ms. Farrar-Owens mentioned that in the course of recommending a methodology for this study that more than 70 articles related to sex offenders were reviewed. In many of the recidivism studies, some of the same factors were found related to sexual/violent or general recidivism (offender age, previous sex convictions, same sex victims, different age groups victimized, marital status). The list of variables our study will be collecting through our file review is not yet finalized, but it certainly will be grounded in the literature. She stressed that file review and data coding is probably the most resource intensive stage of the study.

She said that the Commission members discussed the length of the follow-up period for our study at the last meeting. The literature suggests that a long follow-up period is needed when studying recidivism among sex offenders because of the slow and gradual nature of recidivism among this offender group. The methodology approved by the Commission will allow for a follow-up ranging from five to eight years.

She continued by saying that the recidivism information will be collected from rap sheets and subsequent PSIs. The literature reviewed for this study encompassed a variety of measures of recidivism. Several studies, particularly those done of rapists, measured recidivism based on a new person crime offense and not just a new sex offense. Rape is just one aspect of violent behavior. Several studies also noted the importance of capturing subsequent offenses that may be sex-related like kidnapping. A recidivism data collection method that incorporated these approaches was approved by the Commission at the last meeting. Ms. Farrar-Owens noted that staff had one clarification question regarding whether arrests for show cause hearings or technical violations of probation should be counted. One suggestion was that only arrests for new criminal behavior be counted as recidivist behavior.

She commented that selecting the measure of recidivism generated much discussion at the last meeting. She said she would have additional material to present regarding the empirical foundation for using new person crime arrest as the measure of recidivism for our study. The Commission also discussed the analysis of the data to be collected at the last meeting. She remarked that the staff would use three different methods for analyzing the recidivism data. These three different approaches would help the staff identify the best model to measure the relative risk of recidivism among sex offenders & those factors most associated with recidivism. These methods are the same three methods that were used to analyze the data for the existing risk assessment instrument for fraud, larceny and drug offenders.

Ms. Farrar-Owens continued by saying there are a variety of recidivism measures that can be used, as is evident in the literature. Many studies examined recidivism measured in multiple ways, for instance, analyzing both rearrest and reconviction. Using a new person crime arrest, including any rearrest for a sex offense, was approved by the Commission. Reverend Ricketts commented that arrest records also underestimate criminal activity. Ms. Farrar-Owens noted that the meeting handout included a packet of material containing journal articles relating to sex offender recidivism. Ms. Farrar-Owens asked the members to glance at these studies at their own leisure.

She also reviewed a screening instrument that the State of Minnesota uses. The Director of the Sex Offender Unit in Minnesota said the instrument has not been subject to any serious court challenge. The state of Washington also has a sex offender risk level classification instrument. She discussed several aspects of this instrument. One aspect is

that this instrument does not count a charge that was acquitted. She felt that this bought up an interesting point. Ms. Farrar-Owens said it could be the desire of the Commission in this situation to not count those arrests that result in an acquittal as recidivism events. Reverend Ricketts asked about the purpose of the risk assessment in Washington State. Ms. Farrar-Owens responded that it is to determine the level of community notification that the offender falls into at the point of release.

Reverend Ricketts made a motion to refine the methodology to not count charges when the offender was acquitted. Judge Gates asked the Commission to vote on the Reverend Ricketts's recommendation to modify the methodology. A motion to accept this revision to the methodology as proposed was made and seconded. Mr. Ferguson remarked that he would vote against this motion because he felt there are a vast number of sex offenders that are not arrested. He felt that this revised methodology would add to underestimation. Mr. Petty agreed with Mr. Ferguson's view. He commented that a sex offender should be considered a recidivist if he is arrested regardless of the ultimate disposition. Mr. Petty said he was not comfortable that the State Police records accurately reflect the difference between a not guilty and a procedural disposition. He felt that applying the arrest methodology was more appropriate. Mr. Christie asked about the state of the law with regard to the use of prior arrest information in the penalty phase. Judge Gates said that the judges, not juries, make use of all criminal history information.

Judge Gates asked the Commission to vote on tabling Reverend Ricketts's recommendation to modify the methodology. A motion to table the motion was made and seconded. The motion was approved 13-1. Ms. Farrar-Owens next briefly discussed the timetable for the project.

Judge Gates next asked Dr. Ostrom and Mr. Kauder to cover the next item on the agenda, Final Report on First Phase Evaluation of the Offender Notification Program.

V. **Final Report on First Phase Evaluation of the Offender Notification Program**

Dr. Ostrom began by saying that the National Center of State Courts is working on two projects with the Sentencing Commission. One project started eight months ago and is an evaluation of the risk assessment instrument. He commented that the Center is making good progress on that evaluation. The second study is almost complete after two years of study. At the beginning, the project consisted of an evaluation of the offender notification project. The project ended up being an evaluation of the whole truth-in-sentencing implementation in the state of Virginia. He said that Virginia was a pioneer in their specific development of truth-in-sentencing. There is a lot of interest nationally in Virginia's experience with this change. Dr. Ostrom said the Commission has generated

much valuable high quality research and he felt it should be documented for other states. The final draft of the evaluation report will be completed this week. He then introduced Mr. Kauder to discuss some of the analysis that will be in this evaluation report.

Mr. Kauder presented a chart that showed overall recidivism rates for a sample of offenders released prior to the adoption of truth in sentencing. The recidivism analysis used four measures of return to crime. The four recidivism measures were for any re-arrest, felony re-arrest, reconviction and felony reconviction. The analysis covered 962 offenders released from prison in 1993. Recidivism was tracked for a period of three years and is the most recent analysis available in Virginia and possibly the country. Forty-nine percent of offenders were re-arrested and 35% were re-convicted of a new crime (misdemeanor or felony). Forty percent of offenders were re-arrested for a felony and 22% were re-convicted of a felony.

Sixty percent of offenders who did recidivate for a new crime were re-arrested within twelve months. Fifty-six percent of the felons recidivated with a new felony arrest within twelve months of release. He also showed a chart that compared recidivism rates by gender and race. Males were more likely to recidivate than females. Non-whites were more likely to recidivate than whites.

Mr. Kauder continued by saying that offenders originally incarcerated for property and drug offenses were more likely to be re-arrested. Offenders who were originally incarcerated for a person crime were less likely to recidivate. He noted that of those people re-arrested for a felony property offense, 74% were released for a property crime. Mr. Kauder then presented a chart that showed two measures of recidivism by offense group. Of those offenders who were originally incarcerated for murder, 22% were arrested for a new felony and 8% were convicted of a new felony. The recidivism percentages were much higher for property offenders. The next chart showed recidivism rates across four different measures by age. Offenders in the age group 14-21 have the highest recidivism rate of any of the age classifications. There was a fairly large drop in recidivism for the next closest age group.

He summarized his presentation with a few key points. Age and prior record were the best predictors of baseline recidivism with all other factors being equal. He said that measuring recidivism as new arrests rather than convictions showed more variation by age and prior record. Mr. Kauder remarked that the next step for the Center was to publish the report. The National Center for State Courts would like to seek approval from the Commission to apply for additional funding to track recidivism for a similar group of prisoners released after the truth-in-sentencing implementation. If the funding is approved, the Center would track offenders released in 1996 for three years. That report would be completed by 2001. Mr. Christie thought this study would have to deal with offenders with minor offenses since they were released within a year of being incarcerated. Mr. Kauder said the intent of the study was to measure the impact of the

offender notification program and therefore could include anyone who was released in 1996. Dr. Kern said it is true that most of these offenders would not have been sentenced under truth-in-sentencing. Mr. Christie commented that the study should note that this evaluation deals with the impact of the notification card and not the impact of truth-in-sentencing. Dr. Kern said the study would be an attempt to measure a deterrence effect of the no parole laws.

Reverend Ricketts made a motion that the Commission approve an additional application for funding for the next phase of the study by the National Center for State Courts. The motion was seconded. Judge Gates asked the Commission to vote on the motion. The motion was approved 14-0. Dr. Ostrom thanked the Commission and noted that the Center would begin discussions with the Justice Department to identify funding opportunities for the next study phase.

Judge Gates then asked Mr. Fridley and Ms. Smith Mason to cover the next item on the agenda, New Edition Sentencing Guidelines Manual & Training on Revision.

4

5 New Edition Sentencing Guidelines Manual & Training on Revision

Mr. Fridley started by saying that he and Ms. Smith Mason have been conducting two and three hour training sessions. The two-hour training sessions deal with new changes to the guidelines. The three-hour session is for new guidelines users. He said that 369 probation officers, 62 Commonwealth's attorneys and 106 defense attorneys have already registered for the courses. Mr. Fridley commented that more people are anticipated to register as the training dates approach. Training is being offered in sixteen different locations around the state and there will be a total of 34 training sessions.

Ms. Mason reported that each Commission member had a new manual. This manual represents the third edition of the Sentencing Guidelines Manual. Ms. Smith Mason said the new worksheets and manuals would be sent to the judges, public defenders, probation officers and Commonwealth's attorneys at no charge. A What's New section is in the manual to detail all the changes that are occurring on July 1, 1999. Ms. Smith Mason said that the manual is $75.00 for defense attorneys. She said that the Commission would advertise the manual in Lawyer's Weekly.

Judge Gates next asked Dr. Kern to cover a number of miscellaneous items left on the agenda.

6 Miscellaneous Items

Dr. Kern briefly described a recent workshop entitled "U.S. Sentencing policies: A workshop and Showcase of Innovation." This workshop was sponsored by the

American Judicature Society. The Judicature Society asked Chief Justice Carrico and other Chief Justices in seventeen other east coast states to nominate four people to attend this particular workshop. Chief Justice Carrico nominated Dr. Kern, Mr. Kneedler, Judge Johnston and Senator Trumbo to attend this workshop that was held in Philadelphia in May. Dr. Kern talked about the agenda from the workshop and noted that each state team was asked to make several recommendations they felt could improve the justice system.

The Virginia team felt they could improve the system by educating our sentencing professionals throughout the field on the vast array of community corrections programs available to the court. Virginia has done a good job of educating judges on community corrections options but more attention could be spent on sentencing professionals like prosecutors, public defenders and the defense bar. Two options exist to pursue this objective. The Commission could work in junction with the Department of Corrections to offer a curriculum that includes MCLE credits or the Commission could work this material into the current training seminars.

The second proposal made by the Virginia team dealt with the so-called "Woodrum Amendment" which requires an Commission impact analysis on all proposed legislation that may have an impact on the prison population. The team felt that the General Assembly should consider amending this legislation so that it includes any impact on local community corrections and regional jails. Mr. Kneedler said that the workshop was extremely useful and he felt good about Virginia's criminal justice system. Judge Johnston concurred with Mr. Kneedler's assessment of the usefulness of the conference.

He then updated the Commission members on the SJR332 study group on the Civil Commitment of Sexual Predators. Dr. Kern told the members that Jim Creech has been involved with this project in helping assess the impact of this legislation. Dr. Kern also reviewed with the members the status of the substance abuse screening and assessment program for convicted felons.

Dr. Kern told the members that Judge Gates, Judge McGlothlin and Mr. Vassar would be attending the National Association of Sentencing Commissions in Salt Lake City on August 8-10. Judge Gates told the members to call Dr. Kern if they were interested in attending the conference in August.

With no further business, Judge Gates reminded everyone that the next Sentencing Commission meeting is September 13, 1999, in the 3rd floor judicial conference room.

With no further business on the agenda, the Commission adjourned at 12:55 p.m.