



The Commonwealth of Massachusetts

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Press Release

Norfolk DA Morrissey joins Auditor Calling for changes at Sentencing Commission

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Norfolk District Attorney Michael W. Morrissey is joining State Auditor Suzanne Bump in calling on the Legislature to rein in the State Sentencing Commission – imposing a deadline for it to submit its proposed changes to the Legislature – after the Auditor confirmed that the Commission is violating the law and the law's reporting requirement.

Morrissey will also ask his colleagues, at the November 20 meeting of the Massachusetts District Attorneys Association (MDAA), to withdraw MDAA representatives from the Sentencing Commission until the Commission stops breaking the law and submits its proposed guidelines to the legislature.

"I am not comfortable lending legitimacy to a body that includes members of the judiciary who are breaking the law, and which even went so far as to ignore the Auditor's request for more detailed information about the use of sentencing guidelines not approved by the Legislature," (See p. 5 here) District Attorney Morrissey said.

"I am also going to work with the Legislature on changing how commission members are chosen, and how they vote," said District Attorney Morrissey, who first asked the Auditor in January to look at problems in the process. "Let the defense bar choose their participants, the judiciary choose its members, and the district attorneys, who speak for victims, decide their Commission members."

It would also make for better policy and help reach true consensus if new proposed guidelines depended on at least one vote of approval from each of the Commission's stakeholder groups: Judiciary, defense, and prosecution, Morrissey said. "The current voting structure resulted in the participation of assistant district attorneys being reduced to window dressing. The voices of those who work day-to-day with crime victims were effectively silenced in the recent process. That was wrong, and the Legislature should work to fix the statute, so that they get appropriate and fair input from all the stakeholders."

The current law states that upon a vote by 6 members, the Commission "shall" submit its recommendations to the Legislature – which two successive Commission Chairs have refused requests to do. The Legislature, the Constitutional body empowered to set sentences for criminal behavior, would then be given the opportunity to accept, reject or amend the Commission's recommendations. "The Commission might not like the process, but that doesn't mean they should violate the law," Morrissey said.

"There are multiple problems here," Morrissey said. "First, the Commission should not need to face deadline to abide by the law mandating they send the recommendations to the Legislature – but if it does, the Legislature should impose a deadline as outlined by the Auditor. Second, some of the sentences in the unlawfully implemented guidelines violate statute. Third, now that we have seen how little attention the Commission paid to concerns being raised by prosecutors, changing the statute can help develop meaningful input and advice to the Legislature. It is the Legislature which has the Constitutional obligation and authority to make criminal sentencing laws, not the Judiciary."

"Finally," Morrissey said, "I find it disturbing that in spite of the Auditor's finding that 'the guidelines do not have the force and effect of law,' the Judiciary and their Probation Department Continues to use the guidelines to shape sentences."