

KEVIN S. BRACKETT  
SOLICITOR

February 3, 2020

The Honorable Edward R. Tallon, Sr.  
518B Blatt Building  
Columbia, SC 29201

Chairman Tallon,

I am writing in response to your request for additional information regarding the flow of sentencing information in the court of General Sessions. I will be happy to help explain the process as it works in York County as well as proposed changes that I believe would improve the efficiency in that process while also improving the flow of information between the many agencies that work in the criminal justice system.

Your first question pertains to the current method of creating and distributing sentencing information from our office through the Clerk's office, to the judge then ultimately to Court Administration. Currently this process works as follows:

1. Upon agreeing to a plea of guilty in a criminal case my office generates a sentencing sheet (see Attachment 1) utilizing our case management system, Prosecutor by Karpel (PbK). This includes a sentencing sheet for each charge the defendant will be pleading to, a docket sheet for each charge, any restitution sheets that may be needed, any other ancillary documents that may be implicated by the plea such as plea waiver form, driver license suspension forms, rights regarding loss of firearms rights for certain charges such as domestic violence, etc. These forms are auto filled using existing data in PbK and the fields are typed in and easily read. If the defendant is pleading to a lesser charge, the Solicitor edits that information, and then fills in with an "X" several boxes that provide further information about the charge (violent offense, most serious offense, waiving presentment, etc.)
2. These forms are printed out by my office, the Solicitor signs the sentencing sheet and hands this paperwork to the defense attorney who then goes over the documents with his client and has the client sign where required. The Defense Attorney then carries the signed paperwork to the Clerk of Court's office. The Clerk will fill out those portions of the sentencing sheet they are responsible for such as the judge's code and the fines and fee's portion. This is handwritten on to the forms. She will then witness the defendant

signing the Indictment. Once all the forms are completed and signed by the defendant, defense counsel and prosecutor and witnessed by the Clerk where appropriate, they are hand carried to the appropriate court room.

3. When the plea is called the defendant, their attorney and the prosecutor appear, and the plea is taken. The package of forms is handed to the judge along with the indictments and the judge, at the conclusion of the plea, hand writes the sentence on to each sentencing sheet and signs them. Any ancillary forms requiring the judge's signature are filled out and signed by the judge. At the conclusion of the plea the entire package is returned to the Clerk and copies of each sentence sheet are made for the defendant, the defense attorney, the prosecutor and the detention center if the defendant was in pre-trial detention. The originals are filed in the Clerk's Office. If the defendant is sentenced to an active period of incarceration in the Department of Corrections, a copy is sent with the defendant to SCDC.
4. The Clerk of Court enters the sentence and disposition of each charge in the current Court Administration case management system and the disposition and free form sentence is transmitted to Columbia and the warrant is closed.
5. SCDC receives a copy of the sentencing sheet and when the defendant's file for that incarceration is created the information is read from the handwritten sentence and entered into the computer database used by SCDC. It is currently entered by two people independent of one another. If there is a variance between the two entries the file is flagged for review to ensure that the sentence is entered as it was imposed by the court.
6. Our office enters the sentence into PbK reading from the same handwritten sentencing sheet. The sentence is entered into fields in the database such that the information is searchable and can be exported to another database.
7. Probation, Pardon and Parole receives a copy of the sentencing sheet for cases where a probationary sentence is imposed and must likewise manually enter the sentence into their case management system.
8. In cases where a conviction results in suspension of a driver's license the appropriate form must be sent to the Department of Motor Vehicles.

Your second question asks me to outline how I would propose to distribute this information. If I had my "druthers" the process would work as follows:

1. We would prepare the sentencing package as we currently do.
2. The package would be electronically transmitted to the Clerk of Court who would add the necessary information to each form on their computer. Any signatures would be added electronically and, ideally, a digital picture of the defendant or scan of their thumbprint would be added at this point to eliminate any future issue as to the identity of the person entering the plea.
3. Upon completion and review of the forms by the Clerk of Court they would be electronically transmitted to the courtroom.
4. When the plea is called, the package of forms would be opened on the screen at the bench. The judge would have had to sign in with a unique password to allow for access. The indictments could still be in paper form and handed up or, perhaps at some point these could be digitized as well. The judge would take the plea as normal and when the time came for sentencing, the sentence would be entered digitally on the screen

instead of handwritten. This would be accomplished by a series of questions that identify lead indictment, whether any other charges were going to be consecutive, whether probation would be imposed, whether restitution was required and what special conditions of probation might be required. Upon verifying the sentence, the judge would digitally sign the sentencing sheets.

5. Ideally, the information would be captured by the courts case management system (CMS) and electronically distributed to all relevant parties. Initially, this might just be a PDF copy which must then be manually entered but ultimately the actual sentence would be pulled from the field on the form and automatically entered into the appropriate field in the CMS's of PPP, SCDC, SLED, the Solicitor and any other agency requiring them. This would eliminate the possibility of erroneous entry and assure consistent and instantaneous sharing of the information. And a hard copy of the package could be filed in the Clerk's Office.

The third question asks me to compare the benefits and risks of the existing system with the benefits and risks of the proposed system. I can do this to a point but I am not an IT professional so with that understanding of my limitations I will do my best. The following benefits and risks are in no particular order.

The current system is antiquated and is more or less the way things have been done for decades. It creates the possibility of error when information is transcribed manually from a handwritten form by several agencies into different databases. This danger has been realized recently with the premature release of inmates as well as the holding of inmates beyond the sentence imposed by the court. The proposed method would eliminate this. By entering the sentence in a data field that can be exported to the SCDC database the sentence will be carried over exactly as the judge entered it. If the sentence is filled out correctly by the court at the time of sentencing this would eliminate the possibility of error. If counsel for the state and defense are reviewing the sentence sheet at the time it is imposed, they should be able to catch the rare, unintentional errors immediately.

Using data fields also allows for another unrelated, but significant, benefit. The current sentences are entered "free form" by the Clerk and that is how they appear in the public index. Because of this, the data is not in a form that can be queried for statistical analysis. This kind of data is critical for courts, policy makers and scholars who may wish to analyze the functioning of the justice system. Capturing the data in a format that allows for statistical analysis will dramatically improve our understanding of the criminal justice system and allow for more focused policy making.

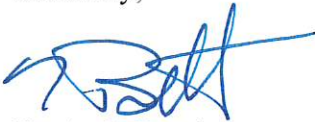
Using a digital sentence sheet should also eliminate the possibility of illegal sentences being imposed (i.e., imposing a sentence of 12 years for a crime that only carries a maximum of 10 years) because the CDR code for the offense can be linked to the allowable sentence range by the software and only offer that range as an option for the judge.

In order for the data to flow smoothly among all the actors we will need to create interfaces between the various agencies databases. These connections will ultimately allow for data sharing on other levels improving the efficiency of each agency and allowing for a more comprehensive and cohesive interaction between agencies in the criminal justice system.

By using data fields, we will also be able to improve transparency for the criminal justice system. Sentences and related data will be immediately accessible to the public in an accurate, consistent and easy to understand format.

I am sure there are many other secondary benefits to implementing this I just cannot think of them all. I hope this is helpful though and please call me if you need anything else.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Brackett', with a long horizontal stroke extending to the right.

Kevin S. Brackett  
Solicitor, 16<sup>th</sup> Judicial Circuit