

# CT Sentencing Commission (CSC) Legislative Subcommittee

## Meeting

CT Appellate Court, Attorney's Lounge

Thursday, May 5<sup>th</sup>, 2011

9:30 AM

**Members In Attendance:** *Commission Chairperson Shortall, Hon. Christine Keller, Subcommittee Chairperson Borden, Sarah Russell (Yale Law School), Michael Lawlor (OPM), Robert Farr (BOPP), William Carbone (CSSD), Andrew Clark (IMRP/CCSU), Aileen Keays (IMRP/CCSU), Amy Meek (Re-entry Coordinator, New Haven Mayor's Office)*

## MINUTES

### I. MEETING CONVENED

Subcommittee Chairperson Borden called the meeting to order at 9:30 AM

### II. APPROVAL OF THE MINUTES FROM MEETING OF April 6<sup>th</sup>, 2011

After review from subcommittee members, Com. Borden asked for a motion to approve the 4/6/11 Legislative Subcommittee minutes. Com. Shortall motioned that the minutes be approved, and Mr. Farr seconded the motion. The minutes were **approved by a unanimous voice vote**.

### III. CONSIDERATION OF PROPOSALS FOR THE 2012 CT GENERAL ASSEMBLY LEGISLATIVE SESSION

Mr. Farr began by bringing up the need to update the list Mr. Reinhart created on unclassified statutes. He noted that they then need to determine how to analyze the unclassified statutes, and noted that this would probably take a subcommittee to accomplish. The third step would be to compare the list against Judicial's list of statutes that have had action in court in the past ten years. The IMRP can create a database to be used for comparing the lists provided by Mr. Reinhart or Mr. D'Orsi and Judicial. Following this filtering process, the statutes identified as obsolete shall be presented to the agencies they are related to, to determine if the statutes may still be beneficial to that agency. Mr. Farr suggested he would chair this subcommittee but would need assistance from prosecutors and defense attorneys.

It was suggested that the subcommittee reach-out to Chris Reinhart or Larry D'Orsi for assistance with updating the statutes list. Mr. Farr said he would

contact Chief State's Attorney Kane and Chief Public Defender Storey for them to designate someone from their respective agencies to assist. Subcommittee Chairperson Borden suggested a timeframe of December 1<sup>st</sup> for having something to present to the full commission.

Judge Keller discussed the establishing of some process for juveniles convicted in adult court to seek a modification of their sentences. She also noted that many other states have a form of "blended" sentencing, citing Missouri as an example. When a child of a certain age receives a conviction, s/he has an opportunity to go before the court (rather than parole), to request a reduction in sentence. In addition, she stated that Connecticut has a persistent juvenile offender statute and a sexual crimes statute, neither of which is used because of questions of constitutionality. The two statutes should either be re-written or have a blended sentence option. If a blended sentence option is chosen, then the defendant must also have the option of going before a jury as is allowed in adult court, but not juvenile.

Professor Sarah Russell noted that Quinnipiac has already begun collecting data on sentence modification following the Supreme Court decision *Graham v. Florida*. There are several questions that need to be addressed in terms of developing a sentence modification system, including how many years after a conviction and whether it should be retroactive. Nine other states have a process similar to the one being contemplated and Commissioner Carbone's office has already pulled data on this. CSSD and Quinnipiac will formulate a document comparing what other states are doing on the subject. From this, the legislative subcommittee will determine what to prepare for the 2012 legislative session.

Mr. Clark and Ms. Meek discussed a document that the members from the CSC university partnership produced regarding the use of pardons in Connecticut. There was discussion over the history of the creation of provisional pardons, as well as its intended use. The committee also discussed raised S.B. 1151, which deals with special provisional pardons. Even if it passes, Mr. Clark noted that the issue of standards for approving provisional pardons needed to be addressed. In the short term, it was recommended that the group research standards for full pardons in other states as well as looking into academic literature on the subject. In the long term, the committee should examine the re-drafting of standards for approving pardons.

#### IV. DISCUSSION OF SOLICITATION OF IDEAS FROM COMMISSION MEMBERS

Subcommittee Chairperson Borden agreed to take the lead on reviewing Dr. Michael Norko's suggestion for sentence modification or early release for individuals with mental illnesses and would speak to Dr. Norko, to determine precisely what he has in mind by his suggestion to the legislative

subcommittee. In terms of the consideration of appropriate intervention for inmates sentenced 15 or more times, Mr. Farr asked if the research subcommittee could examine how many prison beds are filled by people entering prison repeatedly and how many times repeat offenders are re-entering. Judge Shortall said he would refer this to the research subcommittee. It was also suggested that Mr. Arnone be asked for the percentage of the prison population that returns to a correctional facility following release and how many of them were released with community supervision and how many end-of-sentence.

The IMRP will also determine if the above information is readily available. Mr. Kuzyk may have data on the number of released, as well as the percentage returned for violation of probation. It is important to find-out what's available from different sources; it was suggested this project might be longer-term. In terms of the reinstatement of "good time" or earned risk reduction credits, Commission Co-chair Lawlor noted that it was part of the budget therefore it appears it will be initiated, but may need some more tweaking.

Subcommittee Chairperson Borden will take on the issues of kidnapping penal code anomalies and sexual assault in the forth degree statute inconsistencies, suggested by Judge Devlin. Drafts will be presented to the subcommittee in the near future.

#### V. DISCUSSION OF FUTURE MEETING LOCATIONS

It was agreed that the subcommittee should continue to meet at the Attorney's Lounge of the Appellate Court.

#### VI. OTHER BUSINESS

The next meeting will be on Wednesday, the 22<sup>nd</sup> of June at 9:30 AM at the Attorney's Lounge of the Appellate Court.

#### VII. ADJURNMENT

Meeting adjourned at 11 AM