

# CONNECTICUT SENTENCING COMMISSION

## **Full Commission Meeting**

Thursday, September 1, 2011

2:00 – 4:00 PM

Central Connecticut State University

New Britain, CT

**Members Present:** *Michael Lawlor (Vice Chair), Vivien Blackford, William Carbone, Hon. Patrick Carroll, Hon. Robert Devlin, Peter Gioia, Kevin Kane, Tracey Meares, Susan Pease, Maureen Price-Boreland, Patricia Rehmer, John Santa, David Shepack, Susan Storey, Thomas Ullmann, Hon. Gary White*

**Members Absent:** *Hon. Joseph Shortall (Chair), Leo Arnone, Hon. David Borden, Reuben Bradford, Erika Tindill*

**Also Participating:** *Hakima Bey (Representing Michelle Cruz), Andrew Clark, Robert Farr*

**Public Attendees:** *Brian Austin, Ken Barone, Jason DePatie, Bill Dyson, Aileen Keays, Sarah Kolb, Ivan Kuzyk, Michael Norko, Sean Thakkar*

## **MINUTES**

### **I. MEETING CONVENED**

Vice Chair Lawlor called the meeting to order at approximately 2:15 PM.

### **II. APPROVAL OF THE DRAFT MINUTES FROM THE MEETING OF JUNE 27, 2011**

Upon a duly made and seconded motion, the minutes were **approved by a unanimous voice vote.**

### **III. REPORT OF THE CHAIR (Vice Chair Mike Lawlor)**

Vice Chair Lawlor opened the meeting by welcoming new Commission members and acknowledging that some members were unable to attend due to ongoing challenges following Hurricane Irene. The Commission was updated that the vacancy of a municipal Police Chief currently remains open. The president of the Connecticut Police Chiefs Association, Chief Fuchs, is expected to make an appointment in the near future.

#### **a. Work of the Ad Hoc Steering Committee as follow-up to Commission focus group exercise**

The Ad Hoc Steering Committee met in July and August to continue the work of the Sentencing Commission to develop standing committees and identify priorities. There is a

recommendation to form five standing committees; these committees will be introduced at the end of the meeting. For additional information please see the minutes of the Ad Hoc Steering Committee on the Commission website.

**b. Need to focus on certain “process” issues affecting the Commission**

Mike Lawlor reported that in a recent meeting with Judge Shortall and Andrew Clark discussion focused on the need to address certain process issues affecting the Commission. These issues range from conflict of interest disclosure to quorum requirements. It was determined that future process issues will be referred to the Steering Committee for consideration.

**c. Need for position of Acting Executive Director**

Mike Lawlor explained that Judge Shortall believes there is a need for an Acting Executive Director and recommends Andrew Clark for the appointment. This will be referred to the Steering Committee for further consideration, although it was noted by Mike Lawlor that Andrew Clark and IMRP have been fulfilling the role of the Executive Director since the Commission began in February of this year. In the long term, Mike Lawlor explained the Sentencing Commission will be seeking funding to support full time staff.

**IV. REPORT OF LEGISLATIVE COMMITTEE (Andrew J. Clark)**

Andrew Clark reported on the Legislative Committee in place of Committee Chair Borden who was unable attend the meeting. At the last Full Commission meeting Justice Borden identified four recommendations to present to the Sentencing Commission for approval. The first was the conforming of the penalties of some unclassified misdemeanors to the penal code. (Bob Farr updated the Commission on this initiative during the meeting as agenda item V.)

The second recommendation was to amend the sentence modification statute to permit offenders who receive long sentences for crimes committed under the age of 18 to seek a modification of their sentence at some appropriate time. Andrew Clark noted this initiative is moving forward and will be presented at the November meeting. Quinnipiac Law Professors Sarah Russell, Linda Meyer and their students have prepared several memos on this topic and will be meeting with Kevin Kane to solicit his thoughts before draft legislation is presented to the Full Commission. Tracy Meares commented that this is an important initiative and Connecticut may legally be required to address this issue due to the Supreme Court’s *Graham v. Florida* decision (2010).

The third recommendation was to allow judges to grant provisional pardons for occupational licenses. Memos on this topic were prepared by Quinnipiac and Central Connecticut State University addressing the options available for removing employment

and public housing barriers. This recommendation was tabled at the last Legislative Committee meeting due to its complexity and not enough members being present to move the item; however it will remain on the agenda for the next meeting.

The fourth recommendation was to address anomalies in the penal code involving the minimum sentence of the kidnapping statute and sexual assault in the fourth degree. This initiative will be moving forward although further committee action is needed since the issues surrounding these anomalies are more complex than previously anticipated.

## **V. REPORT OF ATTORNEY ROBERT FARR ON PENAL CODE PROJECT OF THE LEGISLATIVE COMMITTEE**

Robert Farr reported on the scope and progress of the Classification Working Group of the Legislative Committee. The working group operates with a consensus-based approach, and is comprised of Robert Farr, Brian Austin (as appointed by Chief State's Attorney's Kevin Kane) and Deborah Sullivan (as appointed by Chief Public Defender Susan Storey). Currently the working group is meeting with different agencies to identify misdemeanors that can be repealed, changed, or classified differently. Five action steps were presented:

- 1.) Identify obsolete statutes to be repealed from a list of 187 misdemeanors for which no charges have been lodged in the past 10 years.
- 2.) Create a new Class D Misdemeanor with a maximum of 30 days.
- 3.) Identify misdemeanors that could be reduced to violations or infractions to reduce cost to the system and the impact on individuals.
- 4.) Amend language definition of misdemeanor classes so that any unclassified misdemeanor with a maximum sentence equal to the maximum sentence of any of the 4 classes will be defined as being included in that class of misdemeanors with the same maximum sentence.
- 5.) Change length of sentences (or repeal) 100 misdemeanor statutes whose sentences currently do not fit within the stated class.

Tracey Meares inquired as to what the advantage of streamlining the penal code would be and what a successful outcome would look like. Robert Farr and Mike Lawlor replied the goal is to streamline the system, save on court costs, and ensure penalties are consistent across the statutes. Tracy Meares also pointed out that this would be a good time to look at model penal code and investigate how other states approach the issue. Judge Carroll recommended working with Judicial since updating the Judicial Classification System may be a challenge and certain changes may not be possible due to the system's age. Mike Lawlor encouraged the working group to evaluate recently enacted legislation, because in many cases legislators are copying models from other states and not aware of possible conflicts with other Connecticut state statutes. This was in response to Bob Farr's comment that the working group was not looking at recently enacted legislation to avoid legislative conflict. Tom Ullmann felt the Classification Working Group should not be increasing jail sentences. Tracy Meares agreed, stating that we should be leveling jail sentences downward. She also recognized that going to court is sometimes a powerful deterrent.

Mike Lawlor explained that Connecticut's system is very different from most other states in that most states give the prosecuting attorney the ability to screen all arrests and decide which to bring to court. Pete Gioia suggested that the Commission and the working group start its work in places where the maximum cost benefit to the system can be quickly realized, particularly with both non-violent and drug offenders. Bill Dyson discussed the business of selling the work of the Sentencing Commission. His main point was that legislators need to be included in the process to avoid an "us" against "them" situation during legislative session.

## **VI. CONSIDERATION AND *VOTE* ON RECOMMENDATIONS OF AD HOC STEERING COMMITTEE ON THE ESTABLISHMENT OF PERMANENT COMMITTEES OF THE COMMISSION**

Mike Lawlor outlined the recommendation of the Ad Hoc Steering Committee to create five standing committees:

- 1.) Steering
- 2.) Sentencing Structure, Policy and Practices
- 3.) Research Measurement and Evaluation
- 4.) Recidivism Reduction
- 5.) Legislative

After reviewing the scope and priorities of each committee Mike Lawlor asked for a motion to approve the creation of the five recommended standing committees. Upon a duly made and seconded motion, the creation of the five standing committees was **approved by a unanimous voice vote**.

## **VII. CONSIDERATION AND *VOTE* ON SELECTED "PROCESS" ISSUES AFFECTING WORK OF COMMISSION**

The quorum requirements Mike Lawlor proposed were **approved by a unanimous voice vote** upon a duly made and seconded motion. The quorum requirement for Full Commission meetings is a majority of the Sentencing Commission's membership. For committee meetings the quorum requirement is at least 3 Commission members who serve on the committee. There is no quorum requirement for working group meetings.

## **VIII. OTHER BUSINESS**

Committee Chair Pease discussed an academic journal article on criminal thinking written by CCSU researchers and previously circulated to the Research Committee. She felt building relationships with academic researchers and circulating academic articles is valuable to the Commission. She also thought it would be nice to feature academic articles utilized by the Commission on its website. Additionally, Chair Pease and Mike Norko recently met and discussed organizing research needs into different categories ranging from descriptive/inferential statistics to data creation. She believes that formalizing researchers' relationships to the Commission is another important step going forward in determining

who has access to what information and what processes should be in place for soliciting research project proposals.

#### **IX. MEETING ADJOURNED**

Meeting adjourned at approximately 4:00PM.