

CONNECTICUT SENTENCING COMMISSION

Sentencing Structure, Policy & Practices Committee Meeting

Thursday, October 20, 2011

2:30 – 4:00 p.m.

Bridgeport Superior Court, Courtroom 3C

1061 Main Street, Bridgeport, Connecticut

Members Present: *Hon. Robert Devlin (Chair), Ruben Bradford, David Shepack, Susan Storey, Tracey Meares*, Mark Palmer*

**via conference call*

Also Participating: *Jason DePatie*

MINUTES

I. MEETING CONVENED

Judge Devlin called the meeting to order at approximately 2:30 p.m.

II. THE ROLE OF THE COMMITTEE

Judge Devlin reported that at the Chairs and Co-Chairs meeting Judge Shortall explained that he envisions most of the Commission's work being done at the committee level and that he would like to keep the number of Full Commission meetings to the minimum required by statute. Judge Shortall also asked that the committees develop research questions so the Commission can utilize the various offers for research help it has received.

III. POTENTIAL RESEARCH PROJECTS:

To begin the process of developing research questions, Judge Devlin suggested that the committee look at the chart developed through the focus group process and further refined by the Ad Hoc Steering Committee. The chart contains topics submitted in response to the question "What areas of the criminal justice system should the Commission address in its work?" Judge Devlin explained the work of this committee is divided into three categories: sentencing structure, sentencing policy and sentencing practices.

A. Sentencing Structure

Judge Devlin read through the topics listed under the sentencing structure header and asked committee members to identify topics that can be developed into research questions. Tracey Meares cautioned that since the work of the Commission is evidence based, it needs to decide what constitutes evidence. For example,

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researchers are no better than political appointees at solving particular problems and the standard of evidence required for each to take action is different.

David Shepack suggested that a good starting point for the committee is to develop a snapshot analysis of who is in jail, for what crime, and for how long. The second part of this project could be to compare Connecticut's snapshot to other states. A particular interest of Susan Story is how parole and special parole are used in Connecticut. She mentioned that the topic of no parole for murder has been discussed at several CJPAC meetings. At these meetings some agency heads have said that they think it would be better for people to be under supervision if they are end of sentence and not eligible for parole. DOC is also interested in the use of medical parole for murder. Judge Devlin asked what kind of research would be helpful in understanding this issue. Susan Storey suggested the committee look at states that allow parole for murder and what kinds of transitional programming these states offer in helping an offenders return to the community after 20 plus years.

Chief Palmer reviewed some of the projects of the previous Sentencing Task Force: addressing violations of probation, the possession of narcotics, and the current state of the penal code. In response, David Shepack stated that early in the Commission's life we need to decide if it is going to be politically driven. Tracey Meares stated that the Commission needs to decide what types of facts it needs to make particular recommendations. For example, some recommendations can be made without knowing any information specific to Connecticut's criminal justice system. Ruben Bradford stated he is most interested in research questions that promote structural change.

Judge Devlin suggested that one research project could be to take a look at Connecticut's model penal code. There have been no major reforms to the model penal code since its adoption in 1971. Over time there have been appendages that are clumsy and unclear. It would be interesting to look at the language of the penal code and see how it has evolved. Tracey Meares suggested this would be a perfect project for a master's degree student. She also pointed out that while the model penal code is very useful there are parts that are generally recognized as failures. She specifically cited such its manslaughter provisions. The committee recognized that the Commission was very interested in mandatory minimums. An interesting part of this research project could be to look at how many mandatory minimums exist in the penal code.

B. Sentencing Policy

The committee developed questions addressing the disparate treatment of offenders and offenses. The general consensus was to add gender, age, and ethnicity to the breakdown of who is in jail, for what, and for how long. The topic of pardons was discussed and Jason DePatie updated the committee on the Legislative

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Committee's current work regarding pardons and the findings of a report evaluating Connecticut's pardons system prepared by CCSU and Quinnipiac Law School.

Committee discussion then turned to the topic of the evaluation and analysis of the sex registry and sex offender laws. It was decided that it is important to differentiate sex offenders into different classes. David Shepack explained that we do have data that shows sex offenders recidivate more than other types of offenders. Tracey Meares stated that not all states have a classification system for sex offenders. Susan Storey thought that it would be important to have a tiered system. Judge Devlin suggested that the committee look at the recidivism rates of different sex offenses. Tracey Meares pointed out that research should not be limited to recidivism, but also should include information available in medical literature and explore how other countries address this issue.

Another topic that can be taken up by the committee and does not need further research is turning the PSI to the defense counsel earlier. There can be significant problems when the defense counsel receives the PSI too late and something is left out. Judge Devlin explained that in many cases judges now ask the defense council to review the PSI with their clients for accuracy. The PSI is looked at very closely by DOC in determining a person's experience while incarcerated.

C. Sentencing Practices

Liability protection for employers who hire ex-offenders was discussed by the committee. Jason DePatie described the liability protection provision that was removed from the Legislative Committee's Certificate of Relief from Barriers proposal. The provision would have created a presumption for excluding evidence of a person's prior criminal history.

Judge Devlin indicated he is also interested in work programs such as Unicore for inmates. He explained that there is dignity in work and when people are tired at the end of the day many of the problems found in prison are minimized. Susan Storey responded that one problem is the variation in programming between prisons. When inmates are moved from one prison to another their educational pursuits and work programs are disrupted.

The committee agreed to present the following five research questions to the Full Commission:

1. Who is in jail in Connecticut?

- a. What does our inmate population look like with respect to race, ethnicity, gender, age, zip code of residence and length of sentence;
- b. For each of the major crimes: how many persons are serving time for that charge and what is the average sentence;
- c. For each inmate: what is the charge of conviction and what was the original arrest charge

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2. End of Sentence Services

- a. Connecticut does not permit parole for murder and some other serious offenses which complicates the ability to provide end of sentence services to persons convicted of these offenses. How many other states forbid parole in this fashion?
- b. Do states that forbid parole have a mechanism to assist offenders in the transition from prison to the community?

3. Penal Code

- a. How has Connecticut's codified criminal law changed since the adoption of the Model Penal Code in the 1970s? What new and or different crimes has the legislature added?
- b. What has been the historical development of mandatory minimum sentences in Connecticut – particularly since the adoption of the MPC?

4. Sex Offenders

- a. What is the evidence (if any) that some percentage of sex offenders continue to engage in illegal sexual misconduct after being prosecuted and punished for a sex offense?
- b. Are the rates of recidivism (or rates of continuing misconduct) different depending on whether the initial conviction involved (1) pedophilia, (2) acquaintance sexual assault or (3) violent sexual assault?

III. MEETING ADJOURNED

Meeting adjourned at approximately 4:05 p.m.