

CONNECTICUT SENTENCING COMMISSION

Full Commission Meeting

Thursday, September 20, 2012

2:00 p.m.

Legislative Office Building, Room 2A

Hartford, CT

Members Present: *Hon. Joseph Shortall (Chair), Mike Lawlor (Vice Chair), Hon. Robert Devlin, William Carbone, Tracey Meares, Vivien Blackford, Susan Pease, Hon. David Borden, Maureen Price-Boreland, John Santa, Pete Gioia, Karl Lewis (Rep. Leo Arnone), Kevin Kane, David Shepack, Thomas Ullman, Hakima Bey-Coon (Rep. Michelle Cruz), Erika Tindill, Reuben Bradford, Patricia Rehmer*

Members Absent: *Hon. Patrick Carroll, Susan Storey, Mark Palmer, Hon. Gary White*

Also Participating: *Andrew Clark (Acting Executive Director), Jason DePatie, Sarah White, Deborah Del-Prete Sullivan*

Public Attendees: *Richard Sparaco (BOPP), Deborah Fuller (Judicial), Sean Thakkar (CJIS), Tessa Bialek (Yale), Gillian Quandt (Yale), Amy O'Connor (Quinnipiac), Linda Meyer (Quinnipiac), Sarah Russell (Quinnipiac), Alex Tsarkov (Judiciary), Rose Parker, Jacqueline Thomas (CT Mirror), Brie Johnston (Betty Gallo & Co.), Helen McCown (Inmate Parent), Robert McCown (Inmate Parent), Aurelia Aleman-Price (Inmate Parent/SCSU)*

MINUTES

I. MEETING CONVENED

Judge Shortall called the meeting to order at approximately 2:13 p.m.

II. APPROVAL OF THE MINUTES FROM THE MEETING OF JUNE 28, 2012

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

III. RECONSIDERATION OF JUVENILE SENTENCES: WORKING GROUP RECOMMENDATION

A memo was passed out regarding the juvenile sentence modification initiative. The memo included a recapitulation of the law, eligibility charts, and a review of the history of the modification bill. Judge Shortall reported that the working group convened over the summer to work out issues with this initiative. It was noted that agreement on some aspects had been reached, such as that parole should be the agency that decides eligibility and the petitioner has the right to counsel. The main disagreement has remained on the

CONNECTICUT SENTENCING COMMISSION

details of offender eligibility. The most recent proposal and the chart mapping out the eligibility criteria were discussed. The floor opened for general discussion, with the goal of deciding whether or not to recommend the latest proposal for the next legislative session. The members agreed that the bill is a good compromise and is supportable.

Members then discussed the population affected by this legislation. Erika Tindill briefly recapped the information she presented at a past meeting regarding offender age, offenses, and sentence status and history. There are cases where offenders had been out on parole and violated it. Erika noted that she can look into obtaining a refined list that looks only at the controlling offense for ages 18 and under. Justice Borden suggested that it should be specified in the bill that reconsideration does not apply to those who have committed further crimes on parole.

Next, it was mentioned that letters from inmates have been sent in regarding this legislation. Justice Borden suggested these be included in the legislative report so that there is a human face added to an abstract situation. Kevin Kane agreed that these letters are important, but that there is no representation of victims voicing their concerns. It is a two-sided picture that should be presented fairly to the legislature. Mechanisms are being discussed to deal with victim issues. John Santa mentioned that the research committee has discussed the use of programs by which there is pro-active reconciliation between victims and perpetrators that will be considered further.

The topic moved on to address issues related to the recent Supreme Court rulings regarding juvenile sentencing. This modification bill has been initiated in order to make Connecticut's policies compliant with the courts' recent decisions, *Miller* and *Graham*. Mike Lawlor noted that Connecticut's statute requires "life without the possibility of release," which violates *Miller*. Justice Borden reported that the legislative committee has a working group that is dealing with the impact of *Miller*. It hopes to present to the commission a recommendation soon. Tom Ullman pointed out that the proposal addresses many of the issues regarding conflict with the Supreme Court decisions; however, the legislature should get involved to deal with issues the commission cannot address.

It was suggested that there be a public hearing by the sentencing commission to air out the problems with this bill before bringing it to the judiciary committee. Judge Shortall asked if the present members had consensus or could live with the agreement produced by the working group regarding eligibility for those convicted under age 18. Kevin Kane emphasized that the suitability standards must be altered to include 300c (appropriate factors to be considered regarding sentencing). Tom Ullman noted that the committee did not recently address the language of bullet 4 regarding suitability. Members then discussed the suitability topic but did not come to an agreement. Judge Shortall determined that there was consensus on eligibility, but there must also be consensus on suitability to obtain consensus on the bill. The bill was referred back to the working group to achieve true consensus by December so something can be ready for the legislative session.

CONNECTICUT SENTENCING COMMISSION

IV. COMMITTEE REPORTS

a. Report of Legislative Committee -

Justice Borden reported the legislative committee's recommendations. First, the committee reported it will reintroduce the bill regarding changes in the statutory language of the "Sexual Assault in the 4th Degree" and "Kidnapping with a Fire-arm" statutes. Second, the committee reported it also wishes to reintroduce the "Certificates of Relief from Barriers" bill. The members believed the issues with housing authorities can be worked out. Third, the committee expects to work out a consensus on the Juvenile Sentence Reconsideration bill. The working group addressing *Miller* and *Graham* issues will continue its work. The working group working on the recent issue of "drug-free school zones" will continue its work, and will be open to address anything the commission refers to them.

b. Report of Recidivism Committee -

Maureen Price-Boreland reported that the committee established its main goals. A meeting with Bill Carbone and others was informative for helping the committee narrow and frame its focus. Credit was given to those who helped draft the initiative on strengthening positive/pro-social ties. The details on the report were provided by Vivien Blackford.

A working group was created to work on three themes: fostering pro-social ties, education, and vocational training. Quinnipiac provided assistance in writing the 30-page report draft on re-entry initiatives that foster social ties. There were over 70 recommendations to address. There is currently active review on the report. The Department of Correction is particularly considering the employment, family services, and education recommendations. Others that merit but are not currently receiving review include some of the low-cost options that remove barriers on prison visitation, etc. Many recommendations face budgetary and/or logistical obstacles. It was suggested that the committee let the commission know what challenges must be addressed so that chairs can meet with appropriations as soon as is practical. The appropriations committee is concerned with corrections issues, and is aware there can be improvements and savings through reducing recidivism. They will help get rid of obstacles so that fixes can be implemented speedily.

Many members commended the work on this report. Lowering recidivism rates and reducing crime has become a top priority for the criminal justice system across the country. It was noted that the state is realizing it has control over many things where changes can be made to enable recidivism reduction strategies. Mike Lawlor noted that reducing recidivism goes hand in hand with doing valid risk assessments. Tools like those used in Ohio are starting to be implemented in places like Connecticut. Judges, prosecutors, and everyone involved must understand the significance of using these tools. Identifying the individual risk of offenders can help address the offenders' needs and reduce recidivism.

Bill Carbone noted that the report shows intent to strengthen the bridge between what happens during and after incarceration. It is being realized that it is better to use the time offenders have behind bars to assess them and give them opportunities while incarcerated

CONNECTICUT SENTENCING COMMISSION

so that when they are released they will have greater means for success. Strengthening family ties during incarceration is critical. Judge Devlin noted that the video conference technology has been improved through talking to corrections institutions. This technology is perfect for working out visitation regiments. It is being piloted and expansion is possible.

The importance of measuring the impact of recidivism was stressed. Mike Lawlor will obtain a report on recidivism from the next CJPAC meeting he attends. Maureen Price-Boreland asked for help making changes of administrative nature to foster this project. Leo Arnone agreed to do some of this work. The committee asked the commission members to fully read the report and provide input on which areas are seen as more important, which programs should be focused on, etc. The report will be made available online. Judge Shortall noted that while the report elicited positive reactions, it is not time to talk about what the Commission will endorse. The Commission will provide feedback on the report.

Andrew Clark reported that there was a presentation on the Results First Initiative the week prior. It focused largely on cost benefit analyses tools focusing on the criminal justice population. The IMRP is working on this as well and the information will be made available to the Commission co-chairs and to the appropriations committee.

c. Report of Sentencing Structure, Policy, and Practices Committee -

Judge Devlin provided this committee's report. They have come up with proposals for improving Connecticut's criminal laws. One proposal centers on persistent offenders. A meeting has been set up for October to consider this proposal. This project overlaps with recidivism, so it is hoped that the recidivism committee reports again by December. The committee also has worked on proposals to amend the present "Murder Under Special Circumstances" statute to conform to *Miller*.

Bob Farr reported that the classification committee is expanding its effort to examine unclassified felonies. There have been several meetings where they have been working on classifying 266 felonies that are currently "unclassified". The report from July lists them all in order of length of penalties. After the next meeting, the working group plans to come back with a report classifying at least half of the unclassified felonies.

Bob Farr also reported on two other projects. The first project centers on charges for false statement crimes. There are 293 "false statement" statutes, most of which do not have uniform requirements. Statute 53a-157b requires that applications be signed under the penalty of false statement; this statute has not been used consistently. The working group will try to come up with a model false statement statute with different levels that agencies can use instead of determining their own false statement policies. The second project centers on creating consistency among statutes regarding property crimes. This project was recently initiated and will be looked at over the next month.

d. Report of Research Committee -

CONNECTICUT SENTENCING COMMISSION

Tom Ullman reported that the committee has held many different meetings and achieved several goals. He noted that there has been a large focus on presentations and discussions of risk assessment tool use. The question has been asked whether studies can be done which correlate risk assessments with sentencing.

Susan Pease promulgated guidelines for the research process. These guidelines are mainly for internal purposes (to guide the committee), and for a time in the future when the commission has funding and has specific research projects that take place. The guidelines have been presented to the committee, suggestions were made to amend them, and the changes have been implemented. The final version will be handed out to the commission soon so that feedback can be provided to the committee.

It was reported that David Shepack asked for a snapshot of the prison population. A letter was written to a research analyst at DOC, asking for specific information on the sentenced population. The analyst has agreed to provide this data by November. This information will be mainly for the Commission's use and can be adjusted down the road. The committee hopes to have the snapshot soon, and will distribute the letter to the commission about the information requested. Judge Shortall agreed that the commission should have this information before doing substantive recommendations on dealing with this population.

V. CONSIDERATION OF THE PROPOSAL TO HOLD PUBLIC HEARINGS

Judge Shortall mentioned that the commission will hold a public hearing on some legislative proposals that will be made for the next legislative session and other programmatic issues that committees recommend. It could be implemented prior to the next full commission meeting so the recommendations will be informed by the results of the public hearing. It may be helpful to have this input before voting and considering the juvenile sentence modification bill or recommendations regarding the sentence of "life without the possibility of release." Regarding the juvenile sentence modification bill, Hakima Bey-Coon asked if it would be possible to provide a list to victim services and DOC to match and see if there are victims registered to receive notification. The answer was yes but they still haven't figured out a way to notify the victims. Victims' services at DOC may be able to provide assistance with this issue.

VI. OTHER BUSINESS

No other business was discussed.

VII. MEETING ADJOURNED

The meeting adjourned at 4:11 p.m.