



Commission on Criminal and Juvenile Justice

Minutes

January 11, 2008
National Enforcement Training Institute
12345 W. Alameda Parkway

Commission Members Attending:

Peter Weir, Chairman	Ari Zavaras	Dean Conder
David Kaplan, Vice-Chairman	Jeanne Smith	J. Grayson Robinson
Peter Hautzinger	Ted Harvey	Regina Huerter
Bill Kilpatrick	Don Quick	Debra Zwirn
Inta Morris	Steven Siegel	Doug Wilson
John Suthers	Karen Beye	David Michaud
Rhonda Fields	Melissa Esquibel	Ellen Roberts
Regis Groff	Ken Gordon	Terrance Carroll
Reo Leslie, Jr.	Gil Martinez	Gerald Rafferty

Call to Order

The Chairman, Peter Weir, welcomed everyone and called the meeting to order at 12:20 p.m.

Opening Remarks

Mr. Weir stated this will be an educational process. The Commission needs to identify priorities and areas that require a more in depth study and analysis. The broad vision for the Commission is to develop some concrete suggestions and solutions. The Commission is to look at four areas in the criminal justice system.

1. Prevention: What do we do with those individuals who are at risk? Can we take measures to make sure they are not swept into the system?
2. Alternatives to incarceration: Who is in the Department of Corrections (DOC)? What is their history? Are there alternatives to DOC?
3. Sentencing: Is the sentence appropriate? Does the sentence maintain public safety?
4. Examination of Juvenile Justice System: If there is early intervention, will it keep juveniles out of the system?

David Kaplan, Vice-Chairman of the Commission stated the biggest challenge facing Commission members is to listen and learn from each other. The Commission needs to find the common ground in order to make progress with the task before it.

Commission members then introduced themselves and gave a brief outline of their expertise or interest in the criminal justice system.

Opening Comments by Governor Bill Ritter, Jr.

Governor Ritter welcomed the members of the Commission and thanked them for their willingness to serve. He outlined the reasons the Commission was established and the tasks set before it.

National Perspective and Local Issues Presented by Chris Stone

Mr. Stone began his remarks by stating the Commission has a broad mandate that requires members to be non-partisan. The Commission recommendations need to be evidence based and have to command the consensus of a broad spectrum of support. The Commission should be guided by three ideals: to stop violence, to ensure justice and to restore hope.

Juvenile justice should be put up front. Not because this is where you get the biggest payoff but because this matters to most people. The Commission can draw on work done in Oregon in the area of therapy. There is a new generation of risk assessment systems that can also be examined. The Commission should review what is specifically happening to the youth in this state to obtain an understanding of the juvenile issues.

A new compact needs to be developed between the police, the prosecution and the state: While the state controls the court systems and the prisons, the people who put the people in the prisons are county and municipal law enforcement. A strategic partnership between all areas of law enforcement is needed. Can crime be reduced with the right correctional resources?

Civilians should be treated with equity and respect. Can we improve their experience with the criminal justice system?

The Commission also should look at accountability. Colorado's prison population is growing faster than that of most states. Colorado is doing well on keeping the crime level low, but it is spending a lot of money to do so. Is Colorado's arrest policy outstripping its crime policy? There are more disorderly conduct arrests than all other arrests combined. There is a steady increase in arrests based on drugs. Is this the proper use of arrests? Can the Commission tailor arrest, prosecution and incarceration plans for maximum crime reduction?

The Commission should also examine using proven programs to reduce recidivism for men and women leaving prison. Within the first 12 weeks, if parolees have a job and a place to stay, their chances to return to prison are reduced. What can be done to help them transition back into society?

Questions & Answers

Mr. Stone's information indicates that arrests are growing faster than crime. Is that the same for youth as well as adults? Most of the growth is for people over 18. The pattern is more exaggerated for young adults.

Does efficiency increase as the arrests grow? No the more people you add, the slower the process.

Did other Commissions take a look at the inter-relations between all areas? Good after school programming has a huge long term promise and benefits, but you won't achieve your goals with just that. They should be part of the package. If you invest in certain kinds of junior high interventions you will reduce the numbers entering the system. The closer you get to the actual moment of crime, but still preventing it, the better the results.

What evidence would be useful? Most of the studies just tell you about the people who complete the program and how well they did. The studies don't tell you about those who were eligible for the program but dropped out. What happened to them? The best way to increase the effectiveness of the program is to increase the reporting of all participants.

Couldn't there be some mandatory parole, no parole and discretionary parole? This might be an issue that this Commission will be debating. It is absolutely clear that you can reduce crime by increasing incarceration, but it

is expensive. It is also clear that you can reduce crime without increasing the prison population. New York did it through a police / prosecution strategy.

What would be a strategic pathway to restore hope? There is a wide array of victim services. There are a lot of different ways that systems engage victims. Colorado has a strong set of victim's services and rights. How victims use the system might be a set of questions the Commission should examine. There are ways in which to build around victim rights and victim services.

Virginia Sentencing Commission Presented by Dr. Rick Kern

The Virginia Sentencing Commission task was to develop an offender risk assessment instrument predictive of a felon's relative risk to public safety to determine appropriate candidates for alternative sanctions. The instrument was to be applied to non-violent felons who were arrested for larcenies, frauds and drug offenses. These non-violent offenders make up approximately 60% of convicted felons.

The Virginia Commission studied 1,500 property and drug felons released from incarceration during a 2-year period. Over 200 unique factors relating to criminal record, substance abuse, education and employment history, family background, etc., were examined.

The end result was the abolishment of parole and the development of truth in sentencing. Virginia has an innovative sentencing structure with a mandate to use an evidence based approach.

The risk assessment tool uses the knowledge gained through observation of actual behavior within groups of individuals. The key to making the system work is that the offender risk assessment is done by the judges. This tool helps the judge determine which individuals would be able to receive an alternative sentence without risking the safety of the public. The criminal risk assessment estimates an individual's likelihood of repeat criminal behavior and classifies the offender based on his relative score.

The assessment tool developed a scoring system that correlated factors that would show a high risk of recidivism. The most significant factor is the age of the offender. The next most important factor was if the person had a prior record, followed by any prior juvenile incarcerations. Other factors were any arrests within past 12 months, if the individual acted alone, their marital status and if there was any prior adult incarcerations.

The goal was to identify the factors and then redirect prison bound felons into an alternative sentencing structure. The higher the number the offender received on the risk assessment form, the higher the likelihood of recidivism. One of the concerns raised was the possibility that the judges would send offenders bound for probation to the new alternative programs and those who were bound for jail still went to jail. Virginia made it a condition of sentencing that the alternative sentence program had to be used on someone bound for jail.

This was pilot tested in six areas. An independent evaluation was done after the risk assessment tool was in use for 18 months. It was found to be effective in diverting low risk felons from prison and those individuals had a low rate of recidivism. The program became statewide on July 1st of 2002. The offenders they have recommended for alternative sentencing have had a lower rate of recidivism than the initial 12% predicted. Virginia is now recommending 49% of prison bound felons shall be diverted to alternative sentencing. The savings in prison costs has funded a lot of ISP, day reporting services, and diversion as alternative sentencing options.

The impact of the Sentencing Commission initiatives is that felons in prison spend 90% of time in prison. There is no parole system. The most crime-prone age bracket is between 15 and 24. Only for the youngest offenders does the longer term in prison help in recidivism. As the offenders get older, the length of sentence does not affect their recidivism rates. With the risk assessment tool and diverting low risk offenders out of jail, the beds in prison were reserved for the high risk, violent offenders.

Colorado has a 49.7% recidivism rate with individuals returning to prison within 3 years of release. A lot of individuals that are returned to prison are technical violators. These people cannot live under the terms of probation. One possibility would be to explore a risk assessment tool for alternative sentencing to prison for

technical violators - to find something else to do with the offender without spending \$27,000 a year for a prison bed.

One process they have in Virginia is if a legislator proposes a change in law that will effect corrections (community corrections, DOC etc.) the legislation has to have a fiscal impact study done. For example, last year there was a bill introduced that required mandatory sentencing for cocaine offenses. The fiscal impact study showed that within six years, the effect of the law would necessitate an additional 3728 prison beds at a cost of \$85 million dollars.

Colorado's Prior Crime Commission Presented by Senator Hopper and Representative. Kerns

Senator Bob Denier from Durango came up with the concept of the Colorado Crime Commission. He felt this was necessary because the heads of various law enforcement agencies did not talk to each other. There was no forum for these people to come together and take a systematic look at legislation. There needed to be an exchange of ideas and thoughts.

The Crime Commission was about the size of the current Commission. There were several subcommittees that developed ideas and programs with significant impact. Sentencing Laws and Legislation subcommittee resulted in the study of crime rankings by public and criminal justice officials. The Community Sanctions and Legislation was responsible for intermediate sanctions and to develop a comprehensive sanctioning policy. The Juvenile Justice subcommittee was responsible for SB94 and alternative sentencing for youthful offenders. The Crime Prevention and Recidivism subcommittee's work resulted in Build-a- Generation. The Treatment subcommittee put forth legislation (HB91-1173) that called for standardized substance abuse treatments.

It is important to maintain the level of involvement by the top people in the agencies. You must keep your eye on the common goal through collaboration. It is important to have open meetings so that when you come to the legislature or to the press it is with a unified voice.

Broaden your political base so it doesn't depend on one or two people. The criminal justice commission was given the responsibility to review any changes to the criminal sentencing structure. Build a coalition with other legislators, not just those who are sitting on the Commission. You need to do the same type of lobbying as you would do for any other form of legislation. Make sure your staffing levels are adequate. Have patience. You are not going to change things right away. Take time to gel as a Commission.

Commission Interview and Survey Results Presented by Paul Herman

Mr. Herman began his presentation by outlining the major objectives that were brought forth during his interviews with the Commission members.

1. The major objective that came out of his interviews with Commission members was the reduction of recidivism.
2. The integration of mental health & substance abuse treatments and to use evidence-based practices.
3. The creation of alternative sentencing options and limitations for habitual criminal filings and sentences.
4. To reform sentencing and parole laws. To address the outdated provisions. To reform laws related to direct transfer filings for juveniles. To determine if sentencing laws are a reflection of whom really needs to be imprisoned.
5. Evaluate the effectiveness of parole, probation and community corrections. Develop a performance measurement process.
6. Focus on crime prevention programming. To balance community and victim safety.
7. Enhance the state Witness Protection Program.

Problems facing the Juvenile/Criminal Justice System:

1. The number one problem is the high level of recidivism due to technical violators returning to prison. Also due to lack of employment. There is a need for improved transition programs for parolees.
2. Lack of resources: Existing services are being under-funded especially in rural area.
3. Mandatory Sentencing. There is a need for sentencing alternatives.
4. Special needs groups: mentally ill, drug/alcohol abusers. There is a need for integrative treatment. The mentally ill should be considered for diversion as means of receiving needed treatments and interventions.
5. A misunderstanding of the causes of crime and violence and the expectation that the criminal justice system can solve the problem.
6. An overburdened system. Court congestion and high case manager loads. Over populated prisons.
7. A lack of sanctions for habitual drunk driving.
8. Over representations of minorities in the system.
9. Lack of a computer system to smoothly share inmate information across agencies. Even though we have CICJIS it is a base, but under utilized and not maximized.
10. A need for integration of service delivery across the state.

What other groups should the Commission attempt to reach? Victims and their families, offender advocate groups, school districts, others doing research on crime and recidivism, the business community, immigration enforcement and advocates, treatment providers, and churches.

What would the Commission members like to know?

1. Offender profiles: all demographics, crime trends, gang activity, drug use, high school dropout rate, family incarceration patterns. How often do individuals commit the same crime?
2. Research on effective alternatives to prison.
3. What programs exist across the state and what is their available capacity?
4. Background information on Colorado sentencing structure.
5. What effect does plea bargaining have on the criminal justice system?
6. List of violations that require a person to go back to DOC.
7. Facts and figures of caseloads across the state.
8. Recidivism: rate by age, crime, mental health status and drug/alcohol abuse. What are the typical things?
9. What is going on in other states?
10. Research on evidence based practices that have a solid success rate.

Mr. Herman gave his suggestions on how to get started to ensure success. Develop a big picture vision and then break that down into pieces to determine how we get there. Ensure the Commission knows what its roles and responsibilities are. Go slow before you go fast. Determine where you want to go. Find common ground.

Wrap-up and Next Meeting

Mr. Weir asked if there are specific areas or issues that a Commission member wants additional information on, to let staff know so a presentation can be made. Mr. Kaplan stated the Commission needs a day where ideas can be discussed and what the structure will look like to use that information to make a decision.

Mr. Weir announced there is a website for the Commission (www.cdpsweb.state.co.us) that will also include a comment section for both Commission members as well as the public.

The next meeting is February 8th at 1:00 at NETI. Plan on having meeting second Friday of every month from 1:00 - 5:00. At the next meeting, Paul Herman and Kim English will present the education plan.

The meeting adjourned at 4:50 p.m.