



Commission on Criminal and Juvenile Justice

Minutes

February 13, 2009
National Enforcement Training Institute
12345 W. Alameda Parkway

Commission Members Attending:

Peter Weir, Chairman	Ari Zavaras	Rhonda Fields
David Kaplan, Vice-Chairman by phone	Jeanne Smith	J. Grayson Robinson
Peter Hautzinger	Ellen Roberts	Regina Huerter
Bill Kilpatrick	Don Quick	Debra Zwirn
Inta Morris	Steven Siegel	Doug Wilson
Regis Groff	Karen Beye	David Michaud
Claire Levy	Gilbert Martinez	Tom Quinn
John Morse		

Absent: Ted Harvey, Dean Conder, John Suthers, Reo Leslie

Call to Order and Opening Remarks:

The Chairman, Peter Weir, called the meeting to order at 1:17 p.m.

Mr. Weir provided a staffing update. The Executive Director position will not be pursued. The remaining JEHT funds will be used pay for the services of Paul Herman as well as pay for outside experts, training and education.

The May meeting will be on two days, May 14 & 15. The location is the Colorado State Patrol Academy.

Mr. Weir stated the Commission needs to advance the meeting times to 12:30 as the meetings need to end 4:30.

Status Report: ID Recommendation Update by Carol Peeples:

During the November Commission meeting, several recommendations from the ID subcommittee were submitted. Recommendation K required further examination. Recommendation K includes amending the statute to allow a person with a felony record to

petition to the court to change their name. There are three groups that need to be notified of the request: the victim, law enforcement and district attorney review and sign-off. There was no difficulty in notifying the victim or the law enforcement community. The district attorneys representatives had several questions.

Ms. Peebles stated there are several rule changes being undertaken by the Department of Revenue. These changes could affect a felon's ability to change his/her name. She suggested taking a "wait and see" approach at this time.

Status Report: Public Education Update and Discussion by Tom Quinn and Lance Clem:

The purpose of the subcommittee is to develop information that can be presented to the public and constituencies to educate them on criminal justice issues. The educational process can also be used to get feedback from these groups. The members of the Commission can take the presentation to town hall meetings, or community organization meetings. Mr. Quinn envisions a core presentation of about 20 slides and access to 30 additional slides with more specific information.

The beginning of the presentation outlines the Commission's statutory purposes and status. The purpose of the Commission is to develop an evidence-based plan for reducing recidivism. The public wants to be protected and want to hold offenders accountable. However, more information may change their perspective.

Public safety is top priority. Options to prison can work and cost less. We need more options between probation and jail or prison. Treatment programs and education can improve results. There is increasing scientific evidence that we can use to improve results.

General directions for future would be to add options for appropriate incentives and sanctions for offenders and train criminal justice practitioners on evidence-based programs.

Feedback would then be asked from the public. Questions such as, "What is your reaction?" "Have you had to deal with the criminal justice system?" "What was your impression of the Criminal Justice System?" "Which goals of sentencing are most important to you?" "Do the steps recommended meet your needs?"

Discussion:

Is the sub-committee on the right track? What should the outreach be through? Who is in prison? This is a question that Steve Siegel is always asked. This should be in the body of the presentation.

There are two views of public safety: Ensuring the appropriate treatment of the offender right now is in the interests of public safety. Additionally, how do you keep the offender from reoffending so the public safety is secured in the future?

There should be a slide showing overall crime rates since 1985. The public needs to know that crime rates have gone down while more people have been incarcerated. The rate of return has flattened out.

Can we use the recession to our advantage? Stress the need to more effectively use tax dollars and not do thing in silos.

Can we highlight that a lot has happened in front end law enforcement. There are a lot of factors that have gone into the crime reduction.

Could you have links to the "What works report"?

We should emphasis that our suggestions have to be evidence-based. If programs that have been around for a while have been found not to work, we are not going to recommend them.

Can you weave questions through the slides? Can you ask provoking questions to get people thinking in a deeper way?

Who should be our first target groups? Our constituency groups (chiefs, sheriffs, legislators, judges, prosecutors, and the defense bar).

Another version of the presentation will be put together and sent out to the committee. Further discussion will occur during the March meeting.

Status Report: Critical Issues Working Groups Update by Regi Huerter:

The Re-entry Oversight Committee broken into task forces to examine four areas of re-entry. The next step is how to institute some of the recommendations that have been brought forward.

Community Corrections:

Community Corrections has set up a working group to look at the Commission's recommendations that pertain specifically to community corrections and provide further study and direction back to the Commission.

Behavioral Health:

The Governor has convened a Behavioral Health Cabinet to look at this issue. The Behavioral Health Cabinet obtained a transitions grant and has contracted with Tri-West who will be coordinating all the resources and programs in the state. During the next CCJJ meeting on the March 13, a large portion of meeting will be devoted to presentations on mental health issues in the criminal justice system. The Commission will transmit our concerns to the Behavioral Health Cabinet.

Minority Over-Representation, Gender and Data:

The Oversight Committee began working on these two issues today. Each task force identified their top three priorities. One thing that came up clearly is how to identify good programs or policies and practices. The Oversight Committee will report back to the Commission.

Status Report: Legislative Working Group Update by Ann Terry:

HB 1041 - Concerning the sealing of direct file records, and HB 1122 - Expanding the age requirements for those who can go to YOS have both passed out of the House.

HB1262 – Felony summons in lieu of an arrest warrant - Will be heard in House Judiciary on February 19th. Peter, Jeanne and Doug Wilson will testify. The lobbyist for immigrant rights may have an objection to this bill.

HB 1263 – Time computation for jail inmates - Came out of the Incarceration Task Force and will be heard in House Judiciary on February 19th as well. CDAC will remain silent on this issue.

HB1264 – College level education for state inmates - Will be heard in House Education on Monday. Someone from higher education will come in and testify as well as someone from DOC.

HB 1266 – Repeal of the loss of driving privileges - These are non-driving offenses where people are losing their driving privileges. This bill will be in House Judiciary on Thursday, February 19th.

Discussion on HB1266:

Rep. Levy is concerned about excluding charges involving alcohol from this bill. She knows of a case where an underage person was caught in possession of alcohol and who lost his license. The individual was out camping, not driving. The purpose behind this bill is to assist adults who were having trouble with completing probation because of they lost their license.

Don Quick suggested amending the bill so a first time offender would not lose the license, but at the second offense they would. An exception could also be made if no car was involved.

Pete Hautzinger moved that the Commission support an amendment to this bill that would include cases involving first time offenders charged with “minor in possession” where the offense was conducted not in a motor vehicle. These individuals would also not have their license revoked. The motion was seconded by Regis Groff.

The motion passed by unanimous consent.

SB 09-135 – Concerning information collection regarding parole decisions - Passed out of Senate Judiciary on Wednesday. It will add language to current statute that DCJ will collect more data from the Parole Board.

Parole Update: by Kim English and Paul Herman:

Discretionary Parole Audit Report – November 2008:

The Governor has endorsed a comprehensive review of the Parole System. The Division of Criminal Justice has developed a new actuarial risk assessment instrument for use by the Parole Board. CDPS seizure funds will be used to pay for the resources required for DOC to automate (electronically) the new Parole Board Action Form that documents the reasons for the parole board decision. DCJ will analyze these data and produce an annual report in cooperation with the parole board.

Mr. Michaud has applied for a technical assistance grant from the National Institute of Corrections (NIC) to hire experts to do a comprehensive review of the parole board's decision-making process and administrative procedures. The technical assistance group will look for areas of efficiency and make recommendations per the Commission's Re-Entry Recommendation 57 ("Outside agency analysis and assistance for the parole board).

Mr. Zavaras stated DOC has begun to examine its researchers' practices following a three-day training provided in December by Paul Herman and colleagues. For example, when an inmate acts out, the first course of "punishment" is to take away visiting privileges, which means access to their family. Research has found family support is an important component to helping an inmate reintegrate into society when he/she gets out. Removing their family support is counter-productive.

Mr. Zavaras also reported that DOC is trying to shift its internal culture from current practices to community policing that involves good communication and problem solving skills. What DOC is trying to do is start the re-entry process when an individual walks in the doors at DRDC.

Risk Assessment Instrument presented by Kim English of the Division of Criminal Justice (DCJ):

The statute mandates that the Division of Criminal Justice shall develop a scale which the State Parole Board shall use in evaluating inmates for parole." DCJ started this work in 1985 and has just completed the development of version 5 of the risk assessment scale. DCJ researchers worked with contractor Marshall Constantino from Analysis, Research and Design, Inc who developed the new risk scale.

DCJ identified a sample of individuals released from prison in the recent past and followed them for five years. The sample (5380 offenders) was everyone who was released on parole from DOC in 2002. Researchers used CBI's arrest data and Judicial's filing data to identify who

received a new arrest and filing and on what charges. They then examined 175 pieces of information on each inmate from DOC's management information system. These were factors that might predict re-arrest/refiling. Using a variety of statistical techniques, researchers identified the nine strongest predictors and weighted them.

The instrument is automatically scored and totaled in the DOC data system when a case manager enters the DOC number on the risk assessment menu. This automatic scoring technique allows for a more complex scoring scheme, reduces error, and reduces staff time.

The CARAS (Colorado Actuarial Risk Assessment Study) has nine risk predictors and, through the weighting system, can have scores ranging from 4 to 79. There are five risk categories: very low, low, medium, high and very high.

The nine predictors are:

1. The number of current conviction charges. Total number of criminal conviction charges associated with the current incarceration.
2. Number of Code of Penal Disciplinary (COPD) violation convictions. The total number of COPD infractions the offender has been convicted of during this incarceration as well as any prior incarceration.
3. The Level of Supervision Inventory (LSI) total score. The LSI predicts recidivism. The LSI is an assessment tool that identifies what services would benefit the offender. The more service needs of an offender is linked to their likelihood of recidivism.
4. Arrested under age 16. This information is contained in the LSI and deals with arrests, not convictions.
5. Age at release.
6. Assessed custody level. DOC assesses the custody level of inmates to determine who should be housed in minimum security facilities, or medium security facilities.
7. Prior parole return on a new crime. The offender has been returned to prison from a prior parole as a result of a new crime. Does not include returns for technical violations. Includes all prior incarcerations at DOC.
8. Number of prior incarcerations in prison.
9. The substance abuse needs level. This comes off DOC's case management tool.

The crime the offender did time for was not a predictor. Neither was the felony class. This assessment tool applies to equally to women and sex offenders. Race/ethnicity was equally distributed across the five risk categories.

The risk scale (the Colorado Actuarial Risk Assessment Scale, CARAS) could be used in the following ways: Low risk offenders could possibly be released at their first parole eligibility date. Many of the inmates in this group were in need of vocational training so this could be made a priority by DOC case managers, especially those that had sufficiently long sentences. The research on evidence-based practices shows that medium and high risk individuals are most likely to benefit from prison and community-based programming. The high risk individuals serve until their mandatory parole eligibility date and maybe should be closely monitored after their release.

The information could be used by Community Corrections Boards as well.

Draft Performance Measures/Recommendations Status:

The intent of the performance measures is to track the effectiveness of a recommendation made to a specific department. DCJ staff distributed a draft of proposed performance measures via email earlier this week and asked for feedback. DCJ will contact the appropriate individuals within the various departments to see if the recommendations can be implemented and if the department can use performance measures. DCJ staff requested a one to two sentence status report on each recommendation by April so that the information can be included in the next Commission report, in June 2009. Can a recommendation be implemented? This is a “Yes/No” question and the answer can vary by department and program. If no, what was the issue whereby the recommendation couldn’t be implemented? This information will be reported back to the Commission in March.

Direction to be taking as a Commission: Sentencing reform or juvenile issues?

Mr. Weir was contacted by Chris Stone at the Kennedy School of Government at Harvard. He has offered his students as a resource for the Commission. They could assist us in putting together a plan on how to look at sentencing reform.

Paul Herman asked the Commission members to think about sentencing in Colorado. Is there a problem with sentencing, and, if so, what is that problem? Below are some of the thoughts

1. Mandatory sentencing. Certain situations where a mandatory sentence is given and judges don’t have discretion.
2. Sentencing structure is overly complex. Too many special circumstances and qualifications.
3. Parole. Is there truth in sentencing? How do earned time and good time, and discretionary parole fit in?
4. Disconnected from resources.
5. Does it allow for effective use of space with low-level offenders?
6. Technological advances can be used now, where that wasn’t an option in the past.
7. What is the outcome we want and are we getting it?
8. Are we talking about adults only? Yes. Are we talking about felonies only? Or misdemeanors, too? Start with felonies and work down to misdemeanors. Lack of evidence-based system illustrates that we need to look at everything.
9. Budget drives what is sentenced. Where someone is sentenced is driven by the fiscal note.
10. Non-transparency in the system.
11. Crime class is not consistent. Nor is there consistency within a crime class.
12. Antidotal sentencing. What is the purpose of sentencing?
13. Arbitrarily doubled sentences in 1985.
14. More alternatives available than DOC and county jail.
15. Disparate sentencing based on ethnicity.

16. As you cut sentences, you need to add programs. Right now you have public safety through warehousing.

Mr. Herman then asked how the Commission members would define sentencing reform.

1. To get value out of the sentencing with the goal of achieving public safety.
2. Sentencing to what? What are the alternatives?
3. Value for the person who is being sentenced.
4. Justice for the victims.
5. Individualized sentencing.
6. What does public safety mean? Does it include having someone come out of prison with their GED, drug/alcohol treatment and have a job?
7. Clearly defined philosophy and purpose.
8. Center point. Have disparate filing decisions. Disparity of community values.
9. Some degree of individualization of sentence within a sentence range.
10. Incentivizing certain decisions. Think outside the box.
11. Consistency reduces cost.

Is there a way to move forward in both areas? Can we charge Harvard grad students to do research on what other states needed to do to undertake sentencing reform and provide us with a blueprint? The second piece would be to get a group together to discuss the issues listed above and better defining them and the issues they impose.

What is the scope of the inquiry? Should it be broad and encompassing or more narrow in scope? Mr. Weir will put together a working group between now and March. He asked for volunteers to submit their name to Ann Terry.

Wrap-up and Next Meeting:

Next meeting will be March 13, 2009 at the State Patrol Academy.

The meeting adjourned at 4:49 p.m.