

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
(303) 866 - 2471
(303) 866 - 2003 fax



Bill Ritter, Jr.
Governor

May 12, 2009

Mr. Peter A. Weir
Executive Director
Colorado Department of Public Safety
Chairman, Colorado Commission on Criminal and Juvenile Justice
700 Kipling Street
Denver, CO 80215

Re: Colorado Commission on Criminal and Juvenile Justice ("Commission")

Dear Director Weir:

The challenges facing the criminal justice system in Colorado are myriad and complex. Recognizing the absolute necessity of addressing these issues, and recognizing that these issues affect all Coloradoans regardless of political affiliation, I have joined with Attorney General John Suthers to help focus the sentencing reform efforts of the Colorado Commission on Criminal and Juvenile Justice ("Commission").

Attorney General Suthers and I share a history of many years of experience in the criminal justice system. I have closely monitored the work of the Commission since its inception, and Attorney General Suthers has been a vital member of the Commission for the past eighteen months. It is appropriate that we partner to work on behalf of the citizens of Colorado to identify areas of pressing concern and devise concrete solutions. Therefore, Attorney General Suthers and I offer the following observations to the Commission:

During the past eighteen months, the Commission has done some exceptional work in analyzing and suggesting changes in the criminal justice system that will have a positive impact on reducing the rate that offenders recidivate and re-enter the system. A number of these suggestions resulted in legislative changes during the 2009 session. We encourage the Commission to continue on its successful course so we can work toward developing a criminal justice system that is tough on those who commit violent and sexual offenses; smart with our responses to individuals who can be rehabilitated; effective and efficient with our expenditures of public funds; and responsive to the needs of victims. Most importantly, we need to be mindful that reform must be accomplished without jeopardizing or compromising public safety. While it is clear that the Commission has had some significant accomplishments, there is still much work to be done.

Since we are convinced that collaboration will maximize the efforts of the Commission, we feel compelled to outline some areas of sentencing reform to prioritize for study. We recognize that these areas may be difficult and do not lend themselves to easy solutions. We welcome the recommendations that will not only preserve public safety but enhance public safety, while allowing us to be thoughtful stewards of limited criminal justice dollars. Because this work is of critical importance to the citizens of Colorado, we reconfirm our mutual commitment that reform must be based upon data and evidence-based practices and that public safety must be maintained. We believe there are some specific areas for reform consideration, and we would ask that the Commission examine these areas and provide recommendations:

- Realizing that a high percentage of offenders return to prison without successfully completing parole, what systemic and statutory reforms to the Parole Board and parole would assist the offenders, protect the citizens from revictimization and maximize the expenditure of public funds?
- Review drug offenses in Article 18 of Title 18. Within these statutes, is there evidence-based data to support changes in the length of sentence for those who use controlled substances, and should there be a focus on substituting treatment for punishment? Does this data apply to all types of controlled substances? Understanding there is a distinction between a drug dealer's impact on society and public safety vs. a user, are there changes that would be meaningful and appropriate? A comprehensive review of the variety of sentences included in Article 18 (deferred judgments with treatment to long mandatory minimum sentences) would be helpful.
- Review whether there should be a reclassification or simplification of all felony offenses – with the application of aggravators, such as for extraordinary risk crimes, crimes of violence and minimum mandatory sentences, we have a very complex sentencing structure. Is there a better way to identify and structure sentencing aggravators?
- Review of the statutory requirements for probation eligibility (number and type of prior felony convictions that would limit an offender's eligibility for probation).
- Review the escape statutes, particularly the distinctions between the application of these laws to escapes from secure settings (jail and prison) vs. community corrections (residential and non-residential settings)
- There is significant concern, both within the criminal justice community and the public, regarding the incidence of repeated traffic offenses committed by individuals with a history of chronic alcohol and substance abuse. Examine the current statutes and practices directed toward habitual traffic offenders and offer recommendations to more effectively address this offender population.

- Data suggests that as age increases, costs associated with incarceration also increase, while the risk of recidivism and danger to the public decreases. Excluding sex offenders, review possible criminal justice system responses to this risk for this population.
- Review the fine schedule and the imposition of fines on non-indigent offenders.
- There's an inherent tension between consistency of sentences and appropriate opportunity for judicial discretion in evaluating the unique circumstances of each case. This tension is particularly apparent in the areas of mandatory sentences and habitual offender sentencing. We would urge the Commission to study, discuss and perhaps offer recommendations in these areas.

Please thank the members of the Commission and all who have participated in the Commission's work thus far. We look forward to receiving the results of your future studies.

Sincerely,



Bill Ritter, Jr.
Governor



John Suthers
Attorney General