



Commission on Criminal and Juvenile Justice

Minutes

May 15, 2009
 State Patrol Academy
 Building 100, 15055 S. Golden Rd.

Commission Members Attending:

Peter Weir, Chairman	Ari Zavaras	Dean Conder
Peter Hautzinger	Jeanne Smith	J. Grayson Robinson
Bill Kilpatrick	Ellen Roberts	Regina Huerter
Inta Morris	Don Quick	Debra Zwirn
John Suthers	Karen Beye	Brian Connors for Doug Wilson
Rhonda Fields	Gilbert Martinez	David Michaud
Regis Groff	Claire Levy	Tom Quinn
Reo Leslie, Jr.	John Morse	Mark Scheffel

Absent: David Kaplan, Steven Siegel

Call to Order and Opening Remarks:

The Chairman, Peter Weir, called the meeting to order at 9:20 a.m.

The National Association of Sentencing Commissions (NASC) is hosting a conference in Baltimore, Maryland on August 2 – 4, 2009. Adrienne will send the agenda out to Commission members. If you are interested in attending, please let DCJ staff know.

Dean Conder announced he is a member of an independent panel of citizens working to improve the IRS. He offered to bring any issues Commission members may have to the attention of the panel.

Recap of Events by Paul Herman:

Mr. Herman reflected on how the Commission's work on re-entry mirrors the re-entry strategies outlined in the PEW Center's report entitled, "13 Strategies for Successful Supervision and Reentry."

1. Define success as recidivism reduction and measure performance
2. Tailor conditions of supervision
3. Focus resources on higher risk offenders
4. Front load supervision resources
5. Implement earned discharge

6. Supervise offenders in their communities
7. Engage partners to expand intervention capacity
8. Assess criminal risk and need factors
9. Balance surveillance and treatment in case plan
10. Involve offenders in the supervision process
11. Engage in formal social controls
12. Use incentives and rewards
13. React to violations with certain and swift sanctions

Update on Oversight Committee on Re-Entry by Regi Huerter:

The Division of Criminal Justice staff prepared a report on all the CCJJ recommendations and included information as to who is responsible for reporting back on the recommendation, where the agency is in the performance measure of each recommendation and the fiscal impact that implementation may have. The Department of Corrections presented a report which outlined how it is implementing CCJJ recommendations. The Oversight Committee will update the Commission next April on where agencies are in the implementation of those recommendations.

During its work, the Oversight Committee on Re-entry identified several overarching issues. These issues are so big that no one task force could take them on.

Community Corrections:

1. GP26 is underway. How do we help persons leaving DOC that are homeless? There have been discussions between Community Corrections and the Denver Sheriff's office to provide housing for homeless persons.
2. Another recommendation is about allowing the offender a grace period for finding employment. In the current economic climate, it is difficult for individuals to get a job. However, one of the requirements to be in Community Corrections is to be employed.
3. The other recommendation is about looking at deferred payments to the Community Corrections providers. This has a \$1.6 million impact. The offender has to pay for their stay in Community Corrections, so asking for a deferment for the payments is being discussed. DCJ is trying to see if ARRA funds might be appropriately used for this.

Minority Over-Representation (MOR):

1. The Commission is beginning to look at this issue by first examining it in the area of revocation of parole or supervision.
2. DOC and State Judicial are coming together to look at what happens to people while on supervision and what causes failure. African American males represent the highest group of offenders that fail. The group is trying to examine why that is and what can be done. They would like to look at revocation practices. Law enforcement practices should also be included. The group will not only be looking at the "Who", but also the "Why's".
3. Another part of MOR is a gender. This is more of an under-representation of services, rather than an over-representation of gender. The female population has stabilized over the past couple of years. In DYJ, there is a lack of services for female offenders and a lack of services for young parents, regardless of whether they are male or female. A new issue that

has come up recently is in regard to transgender individuals and the appropriate placement of and services for them.

4. Is the Commission looking at this issue from the community policing aspect? Or the incarceration issue? Ms. Huerter stated the issue was brought up in re-entry meetings and it is under that area that the Commission is focused. This issue extends beyond the criminal justice system. Social-economic aspects also play into the issue.

Data and Training:

1. This issues is extremely complex and long termed. CICJIS has been in existence for 10 years and still does not have everything worked out. It is about data and data sharing. The Oversight Committee has not begun to look at this issue. It is costly to change data systems.
2. There is a need for training across the system, but there are not enough funds available. DCJ is monitoring JAG grants. They have a \$79 million gap between what was requested this year and what is available. They are working on cross-agency training.

Behavioral Health Issues:

1. The Commission met in March to discuss the impact of behavioral health issues in the criminal justice area. Four areas of need were identified.
2. Treatment availability includes access to services, continuity of care and medication management. Prisons have become the mental health institutions. The San Carlos facility was built to handle all the inmates with mental health issues. It was anticipated that San Carlos would serve the needs of DOC for years to come. The day it opened, it was full. The Triage Working group is trying to establish mental health triage centers that would be available for law enforcement officers to bring an individual in a mental health crisis to.
3. Training is another issue. Agency personnel need to be educated about other available systems allowing for continuity of care and appropriate referrals. Need better training for the current people involved in the mental health arena.
4. Screening and assessment is another area. There is a lack of standardized behavioral health screenings in jail and an inability to get meaningful evaluations of persons early in the criminal justice process.
5. Benefits were also being discussed. There are major delays in accessing funds to pay for treatment and medication. When individuals are incarcerated, their Medicaid/Medicare and Social Security benefits are suspended. It takes a long time to get those benefits reinstated.
6. The group will need direction from the Commission on how to structure the Sub-committee on Behavioral Health. Karen Beye asked if there could be a focus on prevention. If funds could be directed to the front side of behavioral health as opposed to expending the funds on an individual once they are in prison. Ellen Roberts asked what other states are doing. A study by Human Services found that individuals can spend 25% – 30% of their income on their medications.

Presentation on Juvenile Issues by Regina Huerter:

A meeting of subject matter experts in the juvenile arena was held to identify the pressing issues of juvenile justice. The meeting did not revolve around finding answers but was intended to find out what the pressing issues are, and to discover the scope and complexity of the issue itself.

The group identified the following as the most pressing needs of the juvenile justice system:

1. Lack of shared vision, mission and strategic plan for juvenile justice.
2. Complexity of the system. The juveniles and their families can be in multiple systems with multiple requirements. The requirements may not mesh with each other.
3. Lack of family involvement and support. It is not uncommon to have a conversation with a parent who just says, "Just do something with them!"
4. Minority over-representation is also an issue in the juvenile arena. This can be found in the school system. How are they addressing truancy, and school disciplinary issues?
5. Truancy and school success. If a juvenile has had an incident of truancy or suspension by the sixth grade, statistics indicate the individual will continue to be a problem.
6. Juvenile probation officers are also handling adult cases. Where is the juvenile's priority in the face of an adult system?
7. Long-term strategic prevention initiatives.
8. The unfortunate need for youth to enter the juvenile justice system to receive necessary services. There may be behavioral health, or substance abuse issues. Again, the criminal justice system is sometimes the means by which an individual receives treatment or medication. Parents also need training on how to deal with a child with behavioral health issues.
9. Lack of appropriate services and support for the 18 – 24 year olds.
10. A need for a consistent screening and assessment and matching of appropriate services.
11. A need for an early identification of needs as opposed to waiting until the individual is in the adult system.
12. Services are driven by funding source versus the client need. Funding sources are basically silos.
13. Sustainability of evidence based programs. Funding for successful programs is hard to maintain. It is hard to prove that a program has stopped something from happening.
14. We don't have adequate transition services for youth under the age of 18.
15. Understanding of the brain development and functional age.
16. You need to create employable youth. The youth don't have the work ethic that businesses expect. There is also a literacy gap.
17. The access to services varies by region. The Denver Metro area is fortunate to have a lot of services, whereas rural areas have few services.
18. The criminalization of immature behavior.
19. Length of stay in jails or detention facilities. There is also an unfunded mandate for the transportation of juveniles from one jurisdiction to another.
20. What about juveniles that have been direct filed on? Jails are not in the business of taking care of juveniles. Having juveniles in a county jail has a huge impact on the local jail. Juveniles cannot be housed in sight or sound of adults. Large areas of a jail may have to be shut down to accommodate a juvenile. There are consistency issues as to who is direct filed on and who is not.
21. Parts of the Children's Code are archaic.

22. Training: There is a lack of training to promote evidence based and best practice to obtain the best outcomes for youth. There is a lack of training on how to deal with the trauma that a juvenile may witness. Ms. Huerter stated in her work, she has never met an adult or a juvenile in the system that wasn't a witness to, or a victim of a crime.
23. Over ½ of child welfare funding comes from the federal government. We have less control over how the funds can be used.
24. Taking advantage of technology to effectively share information among systems. There is another layer of confidentiality that needs to be worked through when dealing with juveniles.
25. Understanding how technology is used today by youth and how that impacts the justice and human service systems. Bullying can be done through technology. A lot of juveniles who are truant are so because of bullying.

Discussion:

Can the school day be extended? A lot of juvenile crime takes place between 2:00 p.m. and 6:00 p.m. Could the schools be funded by average daily population as opposed the number of students in the school on "count day" which is October 4th? Schools will keep students in the school on count day and then not worry about their attendance after.

Why is it important to examine the juvenile justice system? If we don't want to build 22 more prisons we have to start on the front end – the juvenile issues. Very few police agencies have a juvenile unit. The same is true with prosecutors and those that have juvenile units. No one wants to deal with juveniles. They are not a priority. From the substance abuse perspective, the use is up at an incredible rate. There is a high probability on the return on investment. If you spend dollars on early intervention and treatment, the research shows that adult

Presentation on Sentencing Reform by Peter Weir and Paul Herman:

A group of subject matter experts met to discuss sentencing reform. The purpose of the meeting was to develop a definition for sentencing reform and identify critical issues. The consensus of the group was that the confusing nature of sentencing is the result of a piecemeal approach. Sentencing reform should be done with a comprehensive approach. The legislature often changes a sentence for a crime based on an antidotal indecent. Is this the right way to develop sentencing?

What are goals of sentencing reform? How do you define it?

1. It needs to be simpler and clearer.
2. Reorganization.
3. Provide for clarity, consistency and fairness not only between judicial districts but also between judges.
4. Sentencing should maximize deterrence as well as reduce recidivism.
5. A sense of balance and parity.
6. Development of a system where a sentence is understandable to the public and gives them the sense that justice has been done, but also allows for the individual needs of the defendant.

7. A system where the sentence makes sense.
8. Serves the public safety.
9. Return on investment, both financially as well as socially.
10. How do you provide public safety and justice in more effective ways?
11. Does the punishment fit the crime? Does the punishment fit the offender?

Why are we doing sentencing reform? Are we asking for sentencing reform so that prosecutors and defense counsel know what the sentence will be? Are we doing sentencing reform to make things more consistent? Are we doing sentencing reform to help reduce the inmate population and save us money? The members of the Commission will be coming at the issue from different perspectives and different reasons. However, everyone agrees that what we are doing now is not effective – it is not working.

If the sentences are reduced, the money saved by not having an offender in jail for a longer period of time needs to be directed to programs that reduce recidivism. If you have a violent offender in prison for 8 years, the public is safe for 8 years. When the violent offender is released from prison and re-offends, public safety suffers.

What will be important will be that the Commission becomes a unified group. That this is why we are here and this is where we need to go. We have to go into sentencing reform with this in mind.

CCJJ Direction and Future Focus by Peter Weir:

Where will the Commission go in the next few months? Mr. Weir discussed the development of three sub-committees:

1. Behavioral Health – The issues have been identified and the Behavioral Health Cabinet is taking the lead. The work that needs to be done now is to find solutions and work with the identified groups. DCJ and this subcommittee can work toward developing recommendations and then hand them up to the Behavioral Health Cabinet.
2. Oversight Committee: The Probation, Incarceration and Transition task forces are dissolved. The Post Incarceration Task Force will continue. There are still issues being worked by the various interest groups.
3. Juvenile Justice: The General Assembly stated our focus should be on sentencing reform. Can juvenile justice issues be broken up into segments with the most pressing areas being handled first, as a Phase I approach? The other issues would then be dealt with as part of Phase II? Could we identify some of the more pressing juvenile justice issues and then ask some of the juvenile groups to some of the front-end work? Maybe DCJ could do behavioral health and once that work is done, begin working on juvenile.

Active solicitation: What areas do you think need to be discussed as part of sentencing reform? Mr. Weir wants to hear from the defense bar, probation, and district attorneys. He wants to compile a list of individuals who want to serve on any of these three committees.

Sen. Morse moved that the Commission take up sentencing reform. Further, the issue of juvenile justice will be taken up by the DCJ staff after their work is completed in behavioral health. The

Juvenile subcommittee will identify key issues to be examined and will begin working with other organizations involved in juvenile justice. The Juvenile subcommittee will offer periodic updates on their work to the Commission. Grayson Robinson seconded the motion. The motion passed by unanimous vote.

Reo Leslie made the motion to form a subcommittee on Behavioral Health. DCJ staff will continue to work on this subcommittee until recommendations have been referred up to the Behavioral Health Cabinet. Ari Zavaras seconded the motion. The motion passed by unanimous votes.

Ari Zavaras made the motion to continue the work of the Oversight Subcommittee on Re-Entry and the Post-Incarceration Task Force. This subcommittee will continue to look at the Parole Board and parole issues. David Michaud seconded the motion. The motion passed by unanimous vote.

Jeanne Smith offered some feedback she received from past task forces. When forming the subcommittees, discuss how voting is to take place. Some of the re-entry task forces began with a set membership. Over time the subcommittees encouraged public participation and, as a result, they did not have the same type of balance that they started out with. Ari Zavaras stated that when asking individuals to participate in these subcommittees, please inform them the work commitment is intensive.

Public Education by Tom Quinn and Paul Herman:

Tom Quinn stated the education PowerPoint presentation on the work of the Commission has been presented to a couple of groups. Based on the feedback he and Lance Clem have received, they will make the presentation shorter and include some of the feedback comments. The shorter version will be brought back to the Public Education Subcommittee for their review and then sent on to the Commission as a whole. If members of the Commission have organizations that should see the presentation, Lance Clem has indicated his willingness to contact those organizations. One target group should be the schools and universities that have criminal justice majors and informing them of the direction the Commission is taking. What about getting on the general conferences for judges, district attorneys and defense counsel?

Mr. Weir asked for a motion to be made authorizing Paul Herman to pursue entities that may be willing to provide funding for the public education piece of the Commission. Karen Beye made the motion. Tom Quinn seconded the motion. The motion passed by unanimous vote.

Discussion of June meeting and Annual Report:

The June 12th meeting will have an educational component. Judge Kane from the U.S. District Court will be making a presentation on sentencing reform. We are also trying to bring in either Judge Warren from California or Justice Wolfe from Missouri who are experts in evidence based sentencing practices.

The meeting adjourned at 2:41 p.m.