



Colorado Commission on Criminal and Juvenile Justice

Minutes

January 10, 2014

Jefferson County District Attorney's Office

500 Jefferson County Parkway

Golden, CO 80401

Commission Members Attending:

James H. Davis, Chair	Evelyn Leslie	Kellie Wasko for Rick Raemisch
Theresa Cisneros	Beth McCann	Peter Weir
Kelly Friesen	Norm Mueller	Meg Williams
Charles Garcia	Kevin Paletta	Dave Young
Kate Horn-Murphy	Brandon Shaffer	Jeanne Smith, <i>Ex officio</i>
Julie Krow	Alaurice Tafoya-Modi	

Absent: Sallie Clark, Matthew Durkin, Steve King, Jeff McDonald, Joe Pelle, Eric Philp, Pat Steadman, Mark Waller, & Doug Wilson

WELCOME

James Davis, Chair called the meeting to order at 12:15 p.m. and reviewed the day's agenda.

Kelly Friesen moved to approve the Minutes from the November 8, 2013 meeting. Kevin Paletta seconded the motion. The Minutes were unanimously approved.

CCJJ 2013 ANNUAL REPORT

Ms. Smith announced that the 2013 CCJJ Annual Report has been completed. In previous years, a section was included in the report that outlined progress made on past CCJJ recommendations. Due to the extensive amount of space this would require, the 2013 report does not include this information. However, this information can be found on the Commission website (see, colorado.gov/ccjjdir/L/Recommendations.html). Ms. Smith stated that the success of the Commission should not be measured solely on the number of legislative recommendations. Many improvements have been made through policy recommendations.

The Commission has several issues left to examine. Re-entry and parole are topics that will be revisited. The determinate versus indeterminate sentencing for sex offenders is currently under review by the Comprehensive Sentencing Task Force.

2014 LEGISLATIVE PREVIEW

Ms. Smith provided an overview of proposed legislation resulting from last year's CCJJ recommendations. Senator Steadman has volunteered to sponsor legislation regarding the recommendation to establish a violation for driving under the influence of marijuana (FY13-D07). Recommendation FY13-S02 to modify and consolidate C.R.S. § 18-4-401 (Theft Offenses) to increase clarity and reduce duplication will be sponsored by Representative

McCann. Sponsors are still being sought for the recommendation to eliminate Colorado's extraordinary risk statute (FY13-S03) and the recommendation to make retroactive changes to earned time for habitual criminals (FY14-S02).

TASK FORCE AND SUBCOMMITTEE UPDATES

Comprehensive Sentencing Task Force

Norm Mueller stated that the Task Force has created multiple working groups. Due to the depth of work still to be done the Task Force will not be proposing recommendations or policy changes this year.

Last year, the CCJJ recommended harmonizing several theft offenses. One value-based offense, 1st Degree Motor Vehicle Theft, did not have a consensus within the Task Force at the time that proposals were made; therefore, work on this recommendation continued. Today, the Comprehensive Sentencing Task Force is presenting a recommendation regarding 1st Degree Motor Vehicle Theft. This recommendation incorporates value-based delineations comparable to the new theft statute for class 3, 4, and 5 felony offense levels. No changes will be made to either repeat offender or 2nd Degree Motor Vehicle Theft statutes.

The recommendation presented today will be subject to a vote during the February 2014 Commission meeting.

Community Corrections Task Force

Theresa Cisneros stated that in December 2013, the Community Corrections Task Force met and identified three areas of study. Working groups were formed to further explore these areas. Report-backs from the working groups were provided at yesterday's (January 9, 2014) Task Force meeting.

- The Population Working Group reviewed outcome and recidivism data by risk/need scores. Currently, everyone receives the same programming. Discussion centered on the need to tailor programming to individualized risk/need and that current programming is ineffective. This group will work to develop recommendations based on needs-based assessments.
- The Community Working Group will define what exactly is meant by "community" as well as the make-up and responsibilities of Community Corrections Boards. This work group will also focus on participation and engagement by the community at-large.
- The Referral Process Working Group has not yet met.

Juvenile Justice Task Force

The Juvenile Justice Task Force moved its meetings from the first Friday of the month to the first Wednesday to improve attendance. The working groups have continued to meet and a day-long retreat is scheduled in February.

Minority Over-Representation Subcommittee

The MOR Subcommittee met in December 2013 to review its survey of law enforcement agencies. The Race and Ethnicity Data Collection Survey asked law enforcement around the state if and how they collect minority information. The results show that jurisdictions collect

information differently across the state. The Subcommittee discussed the use of the NIBRS system as an alternative to the UCR system in obtaining MOR data. Law enforcement agencies are concerned about changing data systems in this way because under the UCR system, only the most serious crime (when there are multiple criminal acts) is reported. However, a single incident can result in several charges and under the NIBRS system all charges are listed which may make it appear as if there is a sharp increase in crime. However, using NIBRS provides more granular data and better information on ethnicity (e.g., Hispanic can be distinguished from Caucasian).

EUROPEAN / AMERICAN PRISON PROJECT

Theresa Cisneros and Kellie Wasko (DOC) provided a presentation on the experience of a contingent, including Commission members, who traveled to Europe for the European / American Prison Project which was funded by the VERA Institute. Three states (Colorado, Pennsylvania and Georgia) were selected to send six representatives to participate in the project. The initial stage was an internal examination of the respective state's correctional system and sentencing framework to identify challenges. The representatives then visited Germany and the Netherlands to examine two examples of European correctional systems.

The incarceration rate in Germany is 80 individuals per 100,000 while it's 82 per 100,000 in the Netherlands. In comparison, the U.S. incarceration rate is over 700 per 100,000. The following are observations of European policies and practices:

1. The correctional culture of staff, offenders and the institution is very different between the U.S. and Europe.
 - a. They spend three to four times more per offender than in the U.S.
 - b. The inmates wore street clothes and there was no visible difference between staff and inmates.
 - c. The cells had curtains with matching bedspreads and plants. They are trying to make life inside prison as close to the life outside.
 - d. The conversations between inmate and staff are respectful.
 - e. In Europe, the time to begin rehabilitation is at the start of the incarceration, not near their release date.
 - f. The inmates leave the facilities on Fridays and stay home over the weekend. How does staff get the inmates to return? If the inmate does not return and are caught, then they are sent to a "closed facility" which is closer to what our system is like. Inmates do not want to lose the benefits. In addition, being in prison is very shameful (unlike here where it's almost a rite of passage for some sub-cultures).
 - g. In Germany, there are only 34 inmates with life sentences.
 - h. In Germany there is a heavy emphasis on fines.
 - i. Do they have gangs there? They do have gangs, but they do not tolerate gang affiliation inside prison. Although we officially don't tolerate gang affiliation either, we do separate our inmates by gangs to prevent problems.
2. Accountability for treatment and mentally ill offenders.
 - a. The U.S. process of justice is quite protracted relative to the much shorter time between the crime and punishment in Europe.
 - b. If an offender is found to be mentally ill, the offender is sent to a mental hospital. Whereas, we often use the prison system for mental health treatment, they do not send

mentally ill offenders to prison.

3. Mother-Baby Unit

- a. In Germany, following the birth of a child, an offender can remain in the unit with their child for up to three years. In the Netherlands, the offender can remain in the unit with their child for up to one year following the birth.
- b. These cells are baby-proofed. A pregnant offender will go to the unit, have the baby there, and then live with the child in the unit for the maximum amount of time depending on their sentence.
- c. Colorado has a small mother-baby program called the Baby Haven through the University of Colorado at Denver. But, this more extensive period of mother-baby attachment seen in these European examples is currently under review in Colorado.

The individuals from participating states held a post-Conference meeting after returning to the U.S. Information from the post-Conference meetings was published in a report prepared by VERA entitled “Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States.” [See, vera.org/pubs/sentencing-prison-germany-netherlands]

Julie Krow explained how important it is to have quality early childhood education available to children born in prison. If the State of Colorado moves toward developing a mother-baby unit, focusing on early childhood education should be a priority. Ms. Krow suggested that CCJJ hold one of its meetings at the Baby Haven located on the grounds of Ft. Logan.

What services are provided to offenders in Germany and the Netherlands in lieu of incarceration? Are the services being provided in the community so beneficial that these services help keep the incarceration rate low? The Prison Project representatives were given a presentation on other services, but did not tour these programs and facilities.

It was stated that a difference between the U.S. and Europe is that the U.S. has a Constitution and citizens have Constitutional rights. The same degree of rights is not guaranteed in Europe. The U.S. also offers alternative sentences not available in Europe.

How does the crime rate in Germany and the Netherlands compare to that in the U.S.? Although exact numbers aren’t known, it was stated that crime rates are approximately the same.

How will information from this experience be used? Prior to Tom Clements’ murder, there were three initiatives Colorado was going to investigate. However, Mr. Clements was murdered two weeks after returning from Europe and, as the primary champion for these efforts, the momentum he had begun was lost. The Department of Corrections is now re-engaging in the lessons learned from the tour and these initiatives.

Is the State going to look at mental health issues? In 1955, when the U.S. had a population of 65 million, 554,000 people were institutionalized in mental health facilities. In 2000, the national population increased to 265 million and yet there were only 50,000 individuals institutionalized. The great majority of mental health treatment is now provided by prisons. This re-institutionalization of the mentally ill into prisons is a difficult trend to unwind. A critical topic demanding attention is where and how to best treat those with different types of mental illness.

UPDATE ON MARIJUANA LAWS

Senator McCann mentioned that a big issue for marijuana businesses is their inability to deposit proceeds into banks. Many business owners feel it is dangerous to have so much cash on hand. The Department of Justice has begun to address the problem; however, with no definitive solutions from the federal government, the situation needs urgent attention. Businesses are being paid in cash that cannot be deposited into banks or transported by armored trucks (“money trucks”) because marijuana sales are still federally illegal. Individuals standing in line to purchase marijuana are often carrying large amounts of cash and are potential targets for crime. Another issue regarding marijuana as a cash-only business is that government offices do not want tax payments to occur as a cash transaction.

JUSTICE REINVESTMENT INITIATIVE

The VERA Institute is launching the Justice Reinvestment Initiative. From their website, “Justice reinvestment is a data-driven approach to corrections policy that seeks to cut spending and reinvest savings into practices that have been empirically shown to improve safety and hold offenders accountable. As part of the Justice Reinvestment Initiative, VERA provides technical assistance to states seeking to apply the approach to their local prison and supervision systems.” (See, vera.org/project/justice-reinvestment-initiative).

In order for Colorado to be part of the initiative, the state must submit a request through the Legislature and the Governor. There are two phases to the initiative:

- Phase I involves engaging leaders and key stakeholders in conducting a comprehensive analysis of criminal justice data to identify the key factors that contribute to the population growth within corrections, and developing policy proposals to reduce costs and improve public safety.
- Phase II supports the implementation of policy proposals identified in Phase I. This includes helping relevant agencies implement the policies and providing limited funding and technical assistance to advance the jurisdictions’ goals and desired outcomes. It also includes measuring the fiscal and public safety impact of the policies implemented

ADJOURNMENT

A one and one-half day retreat will be held on March 13th and 14th at a location yet to be determined. The half-day session will cover three areas: an update on national trends, work in Colorado, and progress made and what needs improvement. The following day will include six hours of strategic planning for the Commission.

The next Commission meeting will be February 14, 2014 from 12:30 – 4:30. The February meeting may be canceled if there are too few substantive agenda items. If the February meeting is canceled, the vote scheduled for next month on the recommendation presented today by the Comprehensive Sentencing Task Force will be conducted electronically.

The meeting adjourned at 1:49 p.m.