

**GOVERNOR'S COMMISSION ON CRIMINAL JUSTICE & SENTENCING REFORM
REGULAR MEETING**

Thursday, October 8, 2015

Chicago, Illinois

Attendees: John Maki, Kathy Saltmarsh, Rodger Heaton, Gladyse Taylor, Andy Leipold, Elena Quintana, Kathryn Bocanegra, Jerry Butler, Scott Drury, Karen McConnaughay, Kwame Raoul, Pam Rodriguez,, Dave Olson, Mike Pelletier, Howard Peters,

Phone In: Brian Stewart, Elgie Sims; Doug Marlowe, Greg Sullivan, Brendan Kelly, John Baldwin, John Cabello, Stephen Sawyer

Minutes

- *Motion to adopt the minutes from the June 25, 2015 Commission meeting, with correction to include attendance by Commissioner Elgie Sims.*

Motion to adopt: Gladyse Taylor

Seconded: Andrew Liepold

Motion Carried

Today's meeting is focused entirely on the specifics of potential reform. Although we don't have 100% attendance, now is the time to be precise in discussing concerns or opposition to any proposed reform.

Commission Discussion of Potential Reforms:

- **Expansion of Programming in IDOC**
 - 52% of those needing substance abuse treatment were ineligible because of security and other concerns
 - There are lengthy waiting lists
 - We must address a need to expand education programs
 - We need to look at programs for higher security inmates
 - Gladyse Taylor speaks on the importance of implementation and budgeting to be taken into consideration for this programming, she also explained that we don't want to implement anything that will be statutorily mandated when we don't have those funds
 - Taylor also expresses the need for programs that are evidence based
 - Maki: We need to look at programming over the scope of 10 years
 - Peters: urges the commission to take this recommendation seriously
 - These kinds of programs are those that will dramatically impact recidivism

- We should substantially expand the programs that will prepare offenders to successfully reenter society
 - Eliminate barriers based on seriousness of offenses
 - Offenders should receive sentence credit for completing specific programs
- Exclusion of offenders based on security concerns
 - Taylor believes IDOC needs to revise this practice so that high risk offenders who may be of a higher security concern can still participate in the programs
- Rodriguez: agrees that we need to look at this in a larger scope
 - Additionally programs and treatment that occur within the facility need to continue once the inmate is released
- Marlowe: there is a need to place limitations on the programs to ensure that the only programs being offered have been proven to have large impacts
 - These programs also need follow-up within the community in order to be effective
 - There needs to be an evaluation plan to ensure the programs are following evidence based practices
- Baldwin: it should be the expectation that IDOC reviews the programs on a 3 year basis to ensure programs are working towards our goal
- Marlowe: We should have independent evaluators overlook the programs and their effectiveness vs. IDOC evaluators
- Saltmarsh: Recognize the importance of evaluating and continually evaluating the programs under the Second Chance Grant and implementing a feedback loop so we can understand how these programs are working
- Need to make sure we are only allowing those who need the programming be admitted into the different programs
 - Baldwin: Issue of who actually needs treatment
 - Assessments like Offender 360 can inform us of who will benefit from the programming
 - Low risk people should be treated in the community, not prison
 - Taylor: Should have a sharing on data (medical, mental health information) from the front end to the facilities so we can know the status of the individual before they are put in custody
 - Make sure this process is objective
 - If offenders are self-reporting, they will know the “right” answers to the questions
- Maki: Emphasize the idea that although treatment within prisons is important, being in prison can also exacerbate the problem

- Saltmarsh: We need to recognize there are a variety of objective, risk assessment tools that we should rely on.
 - Marlowe: We can use these tools as a factor in decision making but constitutionally, we cannot take away judicial discretion.
- **Summary:** We should expand programming but only if this programming is evidence based and should be subject to ongoing, outside evaluation and assessment. The participants in the programs should be based on a reliable selection instrument. The programming resources should also be targeted to medium and high risk offenders, and discourage over programming for low risk individuals. We also need to ensure that the programs will continue for the individuals once they are released. IDOC needs to obtain information from any treatment that the offender received prior to their admission to IDOC.
- **Expanding Credit to Inmates for Completing Programs**
 - Heaton: Many offenders do not currently receive sentence credit for completing programs, or are barred from this after their second or third time in prison
 - **Recommendation:** Expand credit for completing programming
 - Kelly: Depends on the offender and what their offense is
 - Violent offenders should not be awarded credit
 - Peters: If these programs are designed to reduce criminality, then all who participate and complete the programs (regardless of offense) should receive credit
 - Olson: Credit motivates inmates to participate in and complete program
 - Taylor: Difficult to capture, hour for hour, when credits are transferred from county to county. Instead offer day to day transfer.
 - Quintana: Possibly expanding limits on how much time offenders can take off through sentence credits. (currently the limit is 90 days per completed program)
 - Sullivan: There is a huge disparity between the programming offering in the northern and southern parts of the state.
 - Olson: Those in IDOC for murder, attempted murder, aggravated sexual assault cannot receive sentence credit as they are under Truth in Sentencing
 - Quintana: Every possible effort should be made that this program can be provided to avoid facilities not offering this because they don't want to allocate resources towards it.
- **Reduce IDOC Admissions for Offenders with Short Sentences**
 - Some who come to IDOC may only have weeks or months to spend in prison because they have credit from time in the county jail

- Should these individuals be placed back into the county jail, placed on supervised release, etc?
- Taylor: This topic cannot be addressed immediately, it will take time
 - These offenders should possibly be placed in ATC
- Peters: IDOC should be given discretion and be given a range of options to choose from and through assessment can decide where to place the individual
 - Should apply to any person admitted to IDOC for under 12 months
- Sullivan: Wary of admittance back into county/local control
- Kelly: Caveat to all of these issues is who will be funding these different recommendations
- Greg Sullivan: Unsure is IDOC will pay the locality for whatever they choose to do with the offenders
- Taylor: Currently \$50 million dollars is used to process these individuals
 - Can we process these individuals in a different manner? Maybe through file sharing/transfer between IDOC and the county.
- Butler: We need to educate the community, law enforcement, judges, etc. about what the commission is trying to do so they may be our allies and can be prepared for the outcomes
- Maki: The previous administration did not explain what they were doing or why they were doing those things, so informing the public is very important
- Leipold: We need to understand what new power will be granted to DOC in terms of their new discretionary power.
- Why are these short terms being sentenced in the first place?
- We can't just be shifting responsibility and costs from IDOC to the local government
- Maki: We are gaining no public safety benefit from this procedure
 - This recommendation will have a rippling effect and will increase the efficiency and effectiveness of the department
- Heaton: Needs to be an education piece to this recommendation so that the community can better understand the granting of additional discretion
- McConnaughay: Judges should gain additional discretion as well
- Kelly: Eliminating some discretion may lead prosecutors to opt for the higher sentencing because the middle ground has been taken away.
- Maki: Opting to place someone in prison for a short period of time is in the best interest of no one. It is not an appropriate use of prison resources and does not benefit public safety.
- Heaton: Lack of clarity on current discretions DOC has on this topic
- **Use of Risk and Needs Assessment Tools From Arrest to Release**
 - Heaton: These assessments be used in different stages of process

- Quintana: These assessments should be used in all stages, but we need to guarantee that those administering these processes are adequately and uniformly trained
- Saltmarsh: Risk/needs information needs to be shared throughout the different agencies involved in the incarceration process and implementation needs to be stressed
- Heaton: Why has implementation been a problem?
 - Saltmarsh: Procurement processes have inhibited the implementation process
 - However, now new staff are now being trained on how to do risk assessment and new director of DOC understands the importance of risk assessment
 - We need our risk assessments to be both static and dynamic in order to be effective
- Maki: Leadership is very important for this process and leadership needs to be clear and motivated
- Risk assessment should not be a problem if implemented at the early stages of the process
- Using risk assessment to determine the sentence goes a step beyond the Crime Reduction Act
 - High risk/high need does not also mean the offender should go to prison, for some it may mean they need other resources
- Maki: We may lose federal funding if we do not implement risk assessment
- Leipold: We need to decide whether to recommend realistically or idealistically, even if we believe it will not be passed.
- Sawyer: Risk assessment could be very beneficial in the judicial system, but the judiciary would need to be trained over risk assessment and how it could be used
 - Could be implemented as a part of the curriculum in judiciary training that occurs every other year
 - Or would require regional training
- Data collection outside the AOIC needs to be accessed and evaluated to ensure no discrimination of minorities
- Saltmarsh: Important to consider and recommend an analysis of pre-sentence investigations and how these investigations are being used by judges
- Rodriguez: Need to differentiate and understand the difference and purposes of risk assessment and risk needs assessment.
 - These different processes have very different purposes
- **Reduce Collateral Consequences of Convictions**
 - Reducing license barriers

- Maki: There should be a relationship between the offense and the license, for example a person convicted of child molestation should not be allowed to have a teaching license
- Drury: This topic is hard to create a recommendation for because you cannot make a blanket for all the barriers
 - Need to evaluate the history behind these barriers and if they are still appropriate to be in place
- Raoul: The goal of this commission is not only to reduce the prison population but also to ensure that when people are released from prison, they will not return.
 - Rodger suggests a side group be created to address these barriers in order to help reduce recidivism
- Leipold: We should connect with career counselors or others who help prisoners obtain jobs inside of DOC so we can determine which jobs are actually desirable for those leaving prison.
- Heaton: Is it possible to identify those who can address employment barrier issues?
- Commission needs to acknowledge that denying people employment, housing, etc.
 - We cannot treat people released from prison as second class citizens
 - “Ban the Box” is a good step, but employers can still deny employment when they discover the candidate is an ex-felon
 - Butler recommends that the denial of employment of ex-felons should be included in the Civil Rights Act
- Peters: Health care worker barring should be given priority as health services is a fast growing field and could supply many jobs
- Bocanegra: Emphasize that creating jobs will increase public safety
- Saltmarsh: IDFPR should do the review of the employment barriers and analyze if the barrier is appropriate for the specific job
- We need to come up with a very specific recommendation concerning this issue
 - Concerning specific statutes and proposing that to the legislature
- Expungement/Sealing of records
 - Time frame of expungement after release
 - Saltmarsh: Focus on sealing rather than expungement
 - Expand the number of crimes that can be sealed
 - 5 years is too long to wait for sealing
 - Heaton: Most recidivism occurs within the first 24 months after release

- Waiting period for sealing/expungement should correspond with this
 - Rodriguez: There should be an online system where eligible offenses should be automatically expunged upon release
 - When records are sealed, does person have to disclose that they have been convicted?
 - Bocanegra: Can the fees be waived for sealing or expungement for indigent people?
 - Heaton: We need to obtain more information regarding this issue in order to make accurate recommendations
 - Incentives to employers
 - Civil liability protection to landlords or employers
 - Drury: We need to determine the standard for this liability, we can't give blanket immunity to all cases
 - Complete immunity may be going too far
 - Rodriguez: Tax incentives usually go unused
 - Maki: Want to make sure we address any unintended consequences that may arise
- **Reclassify Class 4 Felony Possession of Controlled Substance Offenses to Class A Misdemeanors**
 - Maki: We need to think about the benefit this could do for the public, it could potentially cause more problems
 - We should not want to use expensive prison beds for low level drug offenders
 - Raoul and Quintana both are in great support of this
 - Simple of possession of heroin and cocaine up to 15 grams is a Class 4 felony
 - Raoul: Hard to look at this issue in isolation, need to look at intent to deliver charge as well
 - Drury: Other than the prison sentences from these offenses, it is of the utmost importance that these people are receiving treatment for their addiction.
 - If simple possession is made a misdemeanor, how will gangs respond?
- **Develop Incarceration Alternatives for Special Class Offenders.**

A significant amount of proposals need more research and discussion to reach a consensus. Commissioners discussed and agreed to extend the next two Commission meetings to run from 9:00 am to 5:00 pm rather than only afternoon sessions.

Public Comment

- Margaret Stapleton, Shriver Center
 - Many advocacy groups have been addressing collateral consequences in the past years
 - Offering to connect commissioners with individuals who can give more information on these topics
 - Civil Rights Act prohibit outright refusal of rent or employment
 - However, not well known or enforced
- Ben Raydow, ACLU
 - Addressing idea that gangs will carry less if drug possession is changed
 - Still would be able to be charged with intent to deliver

Adjourned

DRAFT