

Minutes of the Louisiana Sentencing Commission
Department of Corrections Headquarters, Building 1
504 Mayflower, Baton Rouge, LA 70802
July 18, 2013
1:00 p.m.

The meeting was called to order by Honorable Ricky Babin at 1:10 p.m.

Members Present

Chairman Honorable Ricky Babin
Honorable Charles Ballay
Honorable Charles Ballay (Proxy for Honorable Louis Daniel)
Mr. David Dugas
Mrs. Julie H. Kilborn
Mr. Cheney C. Joseph
Honorable Robert Kostelka (by phone)
Ms. Angela Whittaker (proxy for Secretary Jimmy LeBlanc)
Ms. Cecil Guin
Honorable Jay B. McCallum
Honorable Hans Liljeberg (proxy for Honorable Michael McDonald)
Mr. Ruston Legendre (Proxy Mr. Robert Mehrtens)
Honorable Laurie White (Proxy for Honorable Helena Moreno)
Honorable Laurie White

Committee and Advisory Members

Ms. Jennifer Bailey, LCLE
Mr. Rhett Covington, DOC
Mr. Frank DiFulco, LASC
Honorable Jules Edwards, 15th JDC
Elaine Ellerbe Re-Entry Benefitting Families
Ms. Sheila Feigley, Private Citizen, Crime Victim
Christine Fuido, Orleans Parish DD
Ms. Melanie Gueho, DOC
Mr. Carle Jackson, LCLE
Honorable Hans Liljeberg, 5th Circuit Court of Appeal
Mr. Billy Kline, DOC
Edward McAuliffe
Linda Pham, Section A Orleans Criminal Dist. Ct
Ms. Phyllis Sheridan, DOC/ P&P
Sarah Tirrell, EBRDA
Ms. Opal West, LCLE
Checo Yancy, La Cure/Re-Entry

Guests

Milissa Cole, SU Ag Center
Linda LaLa Duscoe, CURE
Jennifer Eagan
Delores Johnson, SU Ag Center
Dan Krutz
Judith Rhodes, LSU SSW

Guests continued

Roy Sanches

Gerald Starks, DOC/ P&P

Amy Sorbet, CJS

Honorable Patricia Smith, State Rep

I. Roll Call

Roll Call was taken by Jennifer Bailey, LCLE

II. Approval of Minutes

Motion by Honorable Joseph Cheney; seconded by Honorable Judge Laurie White.

III. Organization for the 2014 Term

A. Review of current Commission membership relative to attendance and participation - Two positions are available to fill: Ms. Manheim's position & position for Chamber of Commerce.

B. Call for permanent proxies – A permanent proxy is not required but will help to make necessary quorum. Members' handouts contain forms that may be handed in or emailed to Jennifer Bailey.

IV. Committee Reports and Planning for 2014 Term

A. Review of matters deferred by the Commission for consideration in the 2014 Term:

Carle Jackson reminded the group that DWI was rewritten in collaboration with highway safety traffic commission, Mothers Against Drunk Driving (MADD), & Louisiana District Attorney's Association (LDAA). This recommendation was not filed as an author could not be found because of limitations placed on a fiscal only session. Carle Jackson discussed the sex offender review panel that was reworked by Judge Jimmy Gaidry. This recommendation was not filed due to the cost of implementation. The Bail bond bill was deferred in committee. Representatives of the bail bond industry are now joining committee members to make recommendations that will satisfy both interests. Pretrial services law was deferred in House Criminal Justice due to language relative to Release on Recognizance (ROR).

B. Identification by the membership of areas for consideration in the 2014 Term:

Honorable Judge Laurie White was asked by Honorable Helena Moreno to propose consideration of mandatory minimum sentencing & DWI review.

C. Review of issues identified by Committees:

1. Carle Jackson mentioned simplification of the sentencing schedule relative to drug laws. Honorable Chairman Ricky Babin will ask Natalie Laborde if the Governor wants to delve into drug code.

2. Carle Jackson brought up simplifying theft law by better utilization of the value graded system in the basic theft statute and eliminating at least some of the specialized theft statutes. David Dugas added sentencing disparities relative to theft law must be corrected, if they are indeed occurring. Honorable Charles Ballay noted interest in specialized theft statutes historically waxes and wanes. This has been tried in the past, but the specialized statutes return. He suggested to put a mechanism in place to maintain control of number and specificity of laws, perhaps a maintenance record as they have in fiscal. Carle Jackson mentioned a similar proposal was made in 2010 but not carried forward.

a. Front End Committee – no report because Judge Wicker is out of town

b. Release Mechanisms Committee – no report. Committee chair needed.

c. Re-Entry and Evidence Based Corrections—Rhett Covington

i. New Team on Housing. Finding appropriate housing for offenders is a relatively new topic that carries serious implications. If an offender is not placed in appropriate and stable housing, his chances of success are greatly diminished. This team is working on the issue with the local housing authorities.

ii. Team 1: Workforce Development (WFD)

Workforce development transition (work release) is an option for the courts that is being used in several jurisdictions in new ways. Currently, Lafayette has the option where a court can use a form of work release for unsentenced defendants to help them keep a current job, and start paying child

support as well as save money for subsequent fines, fees & restitution. In Lafayette and West Baton Rouge, there is an option to place individuals on work release if they are adjudicated for a misdemeanor charge or sentenced without hard labor in the case of felonies to help manage the jail population. Improvements are being made to help the WFD programs to be more effective by better matching the defendant to the job. In order to gain maximum benefit from these programs, a prisoner must have the right job (e.g. a better match between the training or skill development received and the job placement) in the right geographic area (i.e. if an offender incarcerated in Lafayette, but will return home to New Orleans after release, the program would not work because a job will not be waiting for them at home, but in Lafayette). There was no legislation coming out the 2013 Regular Session on this issue. The Workforce Development team hopes to put together best practices recommendations for the local JDC, Sheriff and local housing authority.

iii. Team 2: Substance Abuse Issues – Rob Reardon, Lafayette Parish Sheriff's Office

The team has identified six specific areas that we should address relative to drug treatment:

I Administrative Support of the program: Proper administration is a key component to the successful implementation of drug treatment programs. What is needed here is dependable funding and sufficient guidance to provide appropriate administrative structures.

II Appropriate assessment & identification of individual risk, need, & responsibility: In order to provide effective treatment, the client must be properly assessed and needs identified. The problem is that a drug treatment professional must have an ASI or higher to perform this function properly. A lot of institutions do not have the capacity within their treatment staff or money to pay for a qualified person apart from the treatment staff.

III The provision of evidence based, cognitive-behavioral interventions/curriculum: A survey of Sheriffs' offices and nonprofit providers indicate that some facilities are providing cognitive-behavioral interventions, while others are simply doing didactic education and not treatment. The latter group believes the didactic approach is treatment and is listing education AS treatment but it is not. These organizations must adopt evidenced based processes to ensure that they are actually providing some type of effective treatment. The general problem in this area is cost. Educational programming is simply less expensive than the proven cognitive-behavioral approaches.

IV Qualified staff with specified training in criminogenic needs assessment, substance abuse assessment, & treatment curriculum: Not all agencies have staff with the level of qualifications required by the proven treatment programs. Training in this area should be coupled with quality assessment before we can measure program outcomes and evaluate effectiveness.

V There must be a measure of quality assurance in place to measure progress, performance indicators, & outcome data: If we are to evaluate what works at the programmatic level, there must be consistent, reliable, data, to ensure that we are making valid comparisons. Ultimately, we need a statewide system to track the programs, their processes and outcomes. In the meantime we must have a mechanism in place so that everyone using the system can put the same information into it that could later be extended into a statewide system.

VI Aftercare/Reentry component to ensure continuity of care: In order for treatment to be effective, there must be a smooth transition from custody treatment programming to community based treatment. We have developed a model based on that of the National Institute of Drug Abuse.

The second issue in the area of reentry is the development of a dependable funding stream to support the community based programs. One possibility for funding is to recommend agencies meet OBH (Office of Behavioral Health) criteria or CARF (Commission on Accreditation of Rehabilitation Facilities) accreditation. This process makes them eligible for Magellan funding through Medicaid.

iv. Team 3: Education – Speaker: Dr. Cecile Guin

Dr. Guin advised that Louisiana already had a variety of mandates related to education. In order to come to grips with the wide variety of issues presenting themselves, the Committee prioritized the effort, and researched the most pressing needs first. The Committee focused its study on the relationship between what happens in childhood and how that is transferred into adulthood. We examined the type of educational programs available, especially in correctional settings. While many correctional institutions have educational programming, many jails have none. A cost/benefit analysis reflects a remarkable benefit at low cost for having educational programs in jail. Before that point; however,

children involved in the justice system have few options, leading to a lack of educational attainment. In the community, many alternative education systems do not accept juvenile offenders because they cannot stay in class due to incarceration so they are counted as Failure. We need to address both of these aspects, improving childhood educational opportunities that will prevent future involvement in the system, and remedial education for those adults entering the criminal justice system with little or no education. Honorable Chairman Ricky Babin remarked that a model in principle is wonderful, but in practice – especially for rural areas – the problem is funding. Honorable Charles Ballay asked how we can get reliable data on education or lack thereof & recidivism. Dr. Cecile Guin answered she has data from Lafayette at the jail level and extensive data from DOC. Honorable Charles Ballay noted that collection of such data from other parishes will be difficult as many don't even measure the education level of inmates.

A second problem is that due to changes at the national level, GEDs are only being offered electronically and prisoners cannot afford the new, higher, fee. An alternative should be implemented. Honorable Patricia Smith asked if anyone is doing research on how this could impact the acceptability of the alternative GED and if it will be honored across the country. She suggested we may have waivers adjusted for the prison population so they do not count against the educational institution. Dr. Guin says DOC has information relative to GED data in the report. Honorable Laurie White noted other states have GED alternatives. Honorable Chairman Ricky Babin asked what it would take to invoke the alternative, and ensure that the alternative would be accepted by employers and other entities. Mr. Rhett Covington answered it would have to come up as a recommendation or a statute and have statistics to back up the alternative program. Julie Ferris mentioned Kim Barnette (head of education at DOC) is in talks with Louisiana Community and Technical College System (LCTCS) to see if an alternative GED would be acceptable. This is an issue that should be pursued with the Department of Education.

v. Team 4: Housing – Randy Nichols, CAAH Director

- Property managers don't apply policies they have written. Offenders have to qualify for housing assistance. The Louisiana Department of Housing and Urban Development (HUD) said people in housing for more than 90 days & were not homeless before they came in (even if family will not take them in, or no money to provide for their own housing) must become homeless before provided assistance by HUD.

The Committee is seeking to work with Louisiana Confederation for the Council on the Homeless toward the waiver of certain requirements in the case of persons returning to the community from incarceration. Some of the steps include:

-Attempting to link with Louisiana Interagency Action Council on Homelessness (LIACH) and assist in completion of the strategic plan for the state with regard to housing
- Identify housing options and possible funding models for special needs populations, such as the mentally ill, and hard to place populations, such as sex offenders. An in-depth work up of a client must be done to find what they might qualify for (i.e. mental illness) and may require case work. It is not the mission of the Department of Justice or LA DOC to provide housing once offenders are released. Instead we should make connections to other mainstream resources. Hundreds of thousands of affordable housing units are built with tax money. Mr. Randy Nichols suggested the Sentencing Commission should partner with the Louisiana Housing Corporation to make recommendations that as units become available some should be reserved to address the needs of released offenders.
- Identify partners (e.g. Homeless Continuums of Care) who share the mission of housing homeless clients.

vi. Team 5: Social Supports – Elaine Ellerby

- The difference between a volunteer and a mentor is a volunteer goes into prison to assist with an industry or teach a class, but there's no contact once inmate leaves prison. A mentor has contact with the inmate when they get out. There is a need to train and provide structure for mentors - let mentors know what the boundaries are, what they need to do, and what their role is. We need to think about how

to certify programs, how to create policy within department or within local jails to bring mentors in, certify and supervise them.

- Committee has reviewed mentoring programs to provide a list of best practices for inclusion in program curricula. The only one found that is evidenced based is for juvenile offenders. The Capital Area Reentry Coalition in Baton Rouge & Advanced Coalition at Northeast can be used as a model. There is a shortage of mentors in rural parishes. Ms. Ellerby is in conversation with the District Attorneys to see how she can help with this situation.

- Identify any legislation needed to support the development of mentoring and/or ex-offender support group programs without running into problems based on uneven implementation around the state. The Fatherhood First initiative was cited as a good example of a successful program.

- Honorable Laurie White noted that as a judge she is the one who is finding parolees housing and jobs even though she has no funding or staff to do so.

d. Research and Technology Committee

Mr. Frank DiFulco, Supreme Court, Information Services

Ms. Melanie Gueho, DOC, Information Services

The Committee approved a new Uniform Commitment Order created in conjunction with DOC effective Aug 15th & distributed the form to the Supreme Court, trial court judges, court administrators, and clerks of court. Research & Tech met with LDAA, DOC staff, LCLE staff, and State Police to review the proposed new format for drug statutes. The Committee will be meeting with State Police about the impact on the LiveScan system. The Committee is in process of coding the 100 most frequently cited offenses into the system so that the interface can be rolled out. The District Court judges provided information on their needs so the Committee can research and include restrictions such as those on ROR or other pretrial release.

V. Other Business

A. National Association of Sentencing Commissions conference is being held at University of Minnesota Law School. Attendees will have the opportunity to hear both sides of issues from the leading experts in the field. The focus of conference is use of risk assessment in the sentencing process. Other seminars include justice reinvestment, examining the role of criminal history in sentencing, reform of drug laws, swift & certain sanctions of probation violation, and administrative sanctions. The Conference may be held in New Orleans next year.

B. JRI Oversight committee will be meeting next month. Sara Sullivan will be presenting the plan to request funding for training

VI. Adjourn

Motion made for adjournment by Mr. Cheney Joseph, seconded by Honorable Charles Ballay. Honorable Ricky Wicker adjourned meeting at 2:48 pm.