

FINAL REPORT
SENTENCING INTERIM STUDY COMMITTEE

January 1995

AUTHORIZATION AND APPOINTMENT

The Sentencing Interim Study Committee was established by the Legislative Council, to perform all of the following duties:

- Review current criminal penalties and sentencing practices, including but not limited to the effects of mandatory minimums, indeterminate sentencing, sentence structure and equity, length of sentences, judicial discretion; and parole board discretion, to correct disparities in the criminal code, and determine the effects of sentencing practices on inmate populations at Iowa prisons and community-based corrections facilities.
- Conduct a comparative assessment of the penalties imposed for various crimes based upon the threat posed by the crime itself and also upon the risk generally associated with the criminal offender and determine whether Iowa's sentencing practices need to be comprehensively restructured.
- Determine whether Iowa's sentencing practices need to be comprehensively restructured the Committee was to develop a plan to assist with the restructuring.

Members of the Committee included:

Senator Michael Gronstal, Co-chairperson
Representative David Millage, Co-chairperson
Senator Allen Borlaug
Senator Eugene Fraise
Senator Randal Giannetto
Senator Donald Redfern
Representative Paul Bell
Representative Phil Brammer
Representative Dwight Dinkla
Representative Jerry Welter

COMMITTEE PROCEEDINGS AND BACKGROUND INFORMATION

The Committee was authorized two meeting days, which were held on October 5, 1994, and November 17, 1994. Prior to the first meeting of the Committee, the members were

provided with background materials which included a historical and general description of Iowa's current criminal penalty scheme, general information regarding sentencing and parole practices and factors affecting lengths of sentences, a chart of Iowa's crimes and corresponding penalties, and copies of both legislative and nonlegislative studies related to criminal sentencing and prison populations that had been conducted in the previous 10 to 15 years.

OCTOBER 5, 1994, MEETING

The first meeting of the Committee was held on October 5, 1994. Presentations were made by interested persons concerning current prison populations and prison capacity, crime rates, the work of the Intermediate Criminal Sanctions Task Force, various studies and activities of the Division of Criminal and Juvenile Justice Planning, the policies underlying and effects of certain criminal sentencing practices, prosecutors' concerns related to sentencing practices, and Parole Board activities.

Mr. John Goeldner, Department of Corrections: Mr. Goeldner provided the Committee with information regarding the numbers of individuals in Iowa's correctional system, the types of offenses committed by individuals who are in the system, and the placement and treatment of individuals within the system. Mr. Goeldner described the different institutions within the state correctional system and compared relative populations to capacity. He also provided age and risk factor demographic information for the current inmate population. Mr. Goeldner discussed the problems associated with attempting to describe offender recidivism rates and the types of aftercare and monitoring programs used with various types of offenders. Mr. Goeldner also provided information regarding the impact of changes on Iowa's sentencing laws on prison populations.

Mr. Michael Coveyou, Mr. Sam Knowles, and Ms. Martha Coco, Department of Public Safety: Mr. Coveyou provided the Committee with a historical perspective on the Iowa crime rate reporting system and discussed how crime data was previously and is now categorized, compiled, and indexed. Mr. Coveyou then discussed the various crime rate data, noting that while the rates for certain classes of crimes have decreased, the numbers of arrests and persons in custody have significantly increased recently. Mr. Coveyou also noted the increase in reported violent crimes and arrests, by both adults and juveniles, and provided a sample of adjusted crime rate data for six counties to allow comparison between data received under the old and the new crime rate reporting systems. He then discussed the difficulties associated with comparison of Iowa data with data from other states.

Mr. Clarence Key, Jr. and Ms. Lettie Prell, Division of Criminal and Juvenile Justice Planning, Department of Human Rights: Mr. Key described the work of the Division of Criminal and Juvenile Justice Planning (CJJP) as support staff for the Intermediate Criminal Sanctions Task Force and the progress that has been made by the Task Force regarding use of intermediate criminal sanctions. The Intermediate Criminal Sanctions Task Force was established in 1993 under Senate File 267 and was charged with the responsibility of defining

intermediate criminal sanctions that emphasize a high degree of offender control, recommending a statewide intermediate sanctions structure, and to review the criminal code for purposes making recommendations regarding implementation of an intermediate sanctions plan and the fiscal impact of such a plan. He noted that two pilot projects, in the second and sixth judicial districts, have been initiated to work on proposed implementation strategies for recommendations of the Task Force. Ms. Prell discussed other activities of CJJP, including the Correctional Policy Project and updates of the prison population forecast model, and provided the Committee with information on trends on prison admissions and releases to parole. Ms. Prell reviewed concerns and attitudes regarding sentencing disparity which are contained in a survey of public officials that had been conducted by CJJP and noted ongoing work by CJJP in studying sentencing disparity and the effects of mandatory minimums on sentencing practices.

Dr. Robert Hunter, University of Northern Iowa: Dr. Hunter, a criminology professor from the University of Northern Iowa, provided information to the Committee on the kind of changes that had taken place in inmate populations and sentencing in Texas, where he has conducted extensive research. Dr. Hunter provided the Committee with written information regarding sentencing and sentencing policy. Dr. Hunter noted the influence of the drug trade on the numbers of persons incarcerated and the effects of a lack of prison space on the amount of time actually spent in prison. Dr. Hunter compared the various philosophies of punishment and the practical impacts and drawbacks of the differing philosophies. Dr. Hunter discussed the concept of alternatives to traditional punishments, such as shame-based punishments and other creative community-based sentencing options, and the effects of prison caps on the kinds of sentences that are issued. He also discussed the need for any punishment to be both swift and certain in order for there to be a deterrent effect and the need for strong evaluation components for any punishment mechanisms used.

Ms. Bridget Chambers, Office of Attorney General: Ms. Chambers discussed concerns of prosecutors regarding current sentencing practices. Ms. Chambers expressed concern about the effects of prison overcrowding and the need for sentencing alternatives. She provided the Committee with copies of a report by the Attorney General's Blue Ribbon Panel on Sentencing and described the three-point prison plan recommended by Attorney General Bonnie Campbell. She also stated that a majority of county attorneys have expressed support for further examination of split sentencing, house arrest with electronic monitoring, community service work projects in conjunction with stays in residential facilities, and boot camps for certain youthful male offenders.

Mr. Walt Saur, Board of Parole: Mr. Saur described how the work of the Parole Board has changed in the last several years due to the use of computerized statistical inmate information. He indicated that Iowa's recidivism rates are better than the national average, although the Parole Board has noted an increase in recent years of inmates with higher risk assessments. Mr. Saur discussed the possible use of alternatives to prison incarceration but noted the concurrent need for resources if those options are to be viable. Mr. Saur discussed the use of the risk assessment model by the Parole Board, as well as the use of the Iowa Communications Network for parole hearings.

NOVEMBER 17, 1994, MEETING

Prior to the second and final meeting of the Committee, which was held on November 17, 1994, Committee members received information regarding other states' sentencing schemes; evaluations of several of the State's treatment programs; a copy of the 1992 youthful offender bill (HF 2452; 1992 Iowa Acts, chapter 1231) and accompanying fiscal note and veto message; information regarding the new federal omnibus crime bill; a copy of the violent index crimes and arrests for the years 1976 through 1990; and copies of the Department of Corrections custody classification score sheet and related materials. At the meeting the Committee received testimony from representatives of the Iowa Corrections Association, the Department of Corrections, CJJP, and the Legislative Fiscal Bureau regarding the effects of mandatory minimum sentencing on parole releases, the types and uses of intermediate criminal sanctions, youthful offender programs and juvenile court jurisdiction in other states, and projected programming of the Department of Human Services for delinquent and troubled juveniles.

Mr. Larry Hardy, Iowa Corrections Association: Mr. Hardy discussed and provided the Committee with written information regarding the relationship between mandatory minimum sentences and the Parole Board's decision-making process. He described how mandatory minimum sentences may effectively require the release of higher risk inmates when there is prison overcrowding. He also discussed the benefits of use of the risk assessment tool by the Parole Board and the potential for beneficial use of such a tool at the sentencing level.

Ms. Jeanette Bucklew, Department of Corrections: Ms. Bucklew distributed a copy of and discussed a proposed Iowa corrections continuum, which contains information on the range of available sanctions in the Iowa correctional system. She also distributed and discussed information describing various types of intermediate sanctions that are either available or are being proposed within the Iowa correctional system. Ms. Bucklew provided cost information for several of the intermediate sanctions, including electronic monitoring, intensive supervision, day reporting, and day programming, and provided an update on the kinds of work programs being utilized within the correctional system. She also discussed issues related to the sanctioning structure, such as mental health and sex offender treatment programs and nursing home care.

Mr. Richard Moore, Division of Criminal and Juvenile Justice Planning, Department of Human Rights: Mr. Moore provided written materials and discussed issues related to juvenile offenders. He compared Iowa's juvenile waiver provisions to those of other states. He noted that Iowa's laws are similar to other states in terms of the ages at which and the conditions under which juveniles are waived to adult court, but that Iowa is one of only a few states that does not regularly extend jurisdiction of the juvenile court over any juveniles after they reach the age of 18. He also discussed the 1992 youthful offender bill with the members of the Committee, including the kinds of youthful offenders to whom it was directed and the projected costs of the program.

Mr. Jonathan Neiderbach, Legislative Fiscal Bureau: Mr. Neiderbach, Legislative Fiscal Bureau, described the Department of Human Services' FY 1996 budget requests to provide for a youthful offender boot camp and various other programs for delinquents. He noted that the

Department is proposing approximately \$2.3 million for adolescent monitoring and outreach and approximately \$6 million for supervised community treatment. He emphasized that the budget recommendation does not represent an increase in the Department's request, rather it represents a shifting of funds due to a concerted departmental effort to move children out of group foster care.

COMMITTEE RECOMMENDATIONS

The Committee members discussed the testimony and materials that they had received and reached agreement on the following recommendations at the close of their final meeting:

1. That Iowa's sentencing practices are not in need of comprehensive restructuring.
2. That mandatory minimum penalties for drug offenses should be either removed or the sentencing judge should have discretion to waive them, in order for the judicial and correctional systems to take into account the threat posed by the particular offender. For persons who are already serving mandatory minimum terms for drug offenses, the Parole Board should review those cases and consult with the sentencing judge, to determine whether the mandatory minimum should be served.
3. That the jurisdiction of the juvenile court should be extended to permit the court to retain jurisdiction over certain juveniles at least until they reach the age of 21.
4. That there should be increased use of intermediate sanctions for nonviolent offenders.
5. That a risk assessment tool, such as the Parole Board's risk assessment model, should be used at the sentencing stage and the risk assessment information should be included in the presentence investigation report that is provided to the court.
6. That judges should be given increased flexibility in sentencing and, specifically, that split sentencing should be permitted for all offenses except for a class "A" felony. A split sentencing alternative would allow a court to sentence an offender to a term other than the indeterminate term specified for a given offense and permit the court to suspend part of a sentence, while requiring service of the remainder, when placing an offender on probation.

Other recommendations made by individual Committee members, for which full consensus was not reached, included the following:

1. That the mandatory minimum penalty for persons committing forcible felonies and using a firearm should be increased from 5 to 20 years in prison.

2. That, given the significant entanglement of the federal government in state governmental functions that are contained in the legislation, a resolution be sent by the Iowa General Assembly to the United States Congress calling for the repeal of the federal omnibus crime bill.
3. That a medical wing be established at the Iowa Medical Classification Center at Oakdale to provide a nursing home setting for those infirm inmates with long-term medical needs.
4. That funds be appropriated for a youthful offender program.
5. That greater emphasis be placed on rehabilitation of very young offenders.
6. That additional alternative sentences for drunk driving offenses be explored.
7. That current community service work programs and prison inmate work programs be expanded to include other types of work, such as "hard labor" or work details.
8. That additional funding be allocated to the judiciary to deal with the additional case load that has resulted from the enactment of the domestic abuse law.
9. That sentences for persons convicted of violent sex offenses be increased.
10. That magistrate jurisdiction be expanded to include domestic violence cases.
11. That someone other than the judge be designated to perform the intake assistance to individuals who are representing themselves in court and seeking protection under the domestic abuse law.