

Members

Sen. Richard Bray, Chairperson
Sen. Randall Head
Sen. Greg Taylor
Sen. Lindel Hume
Rep. Ralph Foley
Rep. Greg Steuerwald
Rep. Matt Pierce
Rep. Linda Lawson
Judge John Marnocha
Judge Lance D. Hamner
Professor Craig Bradley
Attorney General Greg Zoeller
Commissioner Bruce Lemmon
Steve Johnson
Larry Landis
Chief Justice Randall Shepard



CRIMINAL CODE EVALUATION COMMISSION

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MEETING MINUTES¹

Meeting Date: June 23, 2011
Meeting Time: 10:40 A.M.
Meeting Place: State House, 200 W. Washington St.,
Senate Chamber
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Richard Bray, Chairperson; Sen. Randall Head; Sen. Greg Taylor; Sen. Lindel Hume; Rep. Ralph Foley; Rep. Greg Steuerwald; Rep. Linda Lawson; Judge John Marnocha; Judge Lance D. Hamner; Attorney General Greg Zoeller; Commissioner Bruce Lemmon; Steve Johnson; Larry Landis; Chief Justice Randall Shepard.

Members Absent: Rep. Matt Pierce; Professor Craig Bradley

Sen. Bray, the Chairperson, called the meeting to order at 10:40 a.m. He told Commission members that: (1) efforts must be made to change the Indiana Criminal Code to make it more comprehensible; (2) the Code needs to be more consistent, fair, and enforceable, and; (3) the Code should be more lenient on lower Class D felonies. Sen. Bray discussed the handouts provided by the Legislative Council that were passed to the members of the commission providing information concerning new sentencing structures. (Exhibit A)

Sen. Bray requested that the commission members form work groups on the topics he discussed and to report their findings back to him. He then introduced Deborah Daniels, partner with Krieg Devault and former United States Attorney, to speak on the Data Analysis Work Group.

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Ms. Daniels stated the Data Analysis Work Group intends to recommend a new sentencing structure on all felony classes to reduce recidivism and overcrowding of the corrections facilities. PowerPoint presentations (Exhibit B) were distributed to the Commission members. The names of all entities of the Data Analysis Work Group were listed in the presentation. The Indiana Judicial Center sponsored Attorney Daniels' involvement with this research.

Ms. Daniels also described past efforts to reform sentencing laws. In 2010, the Chairman of the Commission, Rep. Matt Pierce, formed a working group to propose legislation for the Commission to consider. The work group consisted of Steve Johnson, Executive Director of the Prosecuting Attorneys Council; Larry Landis, Executive Director of the Public Defenders Council; and Judge John Marnocha from St. Joseph Superior Court. The current work group is engaging in legal research and data analysis. The current legal research team includes two representatives of the Prosecuting Attorneys Council, one representative from the Public Defenders Council, two attorneys from the Judicial Center, and four law clerks from the Attorney General's office.

The topics that the work group is studying include:

- Comparing how other state laws are written and their sentencing structures to Indiana's.
- Restrictions on suspended sentencing.
- Enhancements on sentencing based on prior convictions.
- Habitual offenders and habitual substance offenders.
- Drug laws.
- Sentencing for first-time offenders and repeat offenders.
- Credit-time issues, time served and imposed sentencing.
- How other states determine charging information.
- Various classes of felony offenses and the number of counts filed under each class of felony.

Ms. Daniels also indicated that Indiana's criminal codes were last comprehensively revised in 1977 based on the model penal code that was developed in the 1960s.

In response to questions from Sen. Taylor, Ms. Daniels stated that she would examine the sentencing laws of selected states. She also indicated that staff with the Pew Center performed much of the analysis for the 2011 legislative proposal and that the Pew Center agreed to bring in a statistician to analyze the Pew Center's study.

In response to questions from Sen. Hume, Ms. Daniels stated that the work group is currently at a research stage and intends to prepare a report regarding sentencing options. She said the Judicial Center held an evidence-based practice seminar consisting of judges, prosecutors, defense counsels, and probation officers discussing SB 561- 2011 and topics to reduce recidivism. Ms. Daniels emphasized that the Commission should examine what programs and practices work to reduce the recidivism rate of offenders. The Council of State Governments is currently researching how imposed sentences, the length of incarceration, and related matters affect the recidivism rate and state population levels.

Rep. Ralph Foley also added comments about the data analysis group (Exhibit C) and their efforts as to the following: (1) defining what data is being measured; (2) making certain the statistics are the same; (3) understanding what data is being compared or measured; and (4) for all parties involved, agreeing with the measurements being used to assist the Criminal Code Evaluation Commission, Criminal Law and Sentencing Policy Study Committee, and for other legislative work.

Rep. Foley said that public safety should be the highest priority when proposing changes in sentencing laws. He also described his efforts last session relating to Amendment 47 of SB 561- 2011 to increase funding for counties to use to supervise offenders released in the communities. He also wishes to examine in more detail the role of probation and parole officers in supervising offenders who are either released from the Department of Correction or sentenced by the courts.

Sen. Bray, told the commission members that he would like to see the felony classes increased from four felony classes. He also indicated that he wishes the Commission will examine in more detail changes to criminal laws concerning theft, drugs, and the more complex issues such as drugs, sex crimes, and sentencing structures.

Steve Johnson suggested that the Commission consider expanding the current felony levels from four (A, B, C, and D) to either five or six felony classifications to define the crimes.

Sen. Taylor advocated for restricting access of arrest and conviction records of offenders convicted and sentenced for nonviolent crimes given the difficulty that persons with criminal histories have in securing employment, particularly when the overall unemployment rate is high.

Sen. Bray suggested that by evaluating the sentencing structure and understanding what works, the sentencing structure of the Code will be improved. Selected commission members assigned to certain groups are to provide the Annie E. Casey Foundation their available dates to meet to discuss the theft statute and to report back their findings to Sen. Bray before next month's commission meeting. Any data discovery is to be sent to the commission members.

Sen. Bray adjourned the meeting at 11:31 a.m.