



CRIMINAL PUNISHMENT CODE TASK FORCE Minutes

October 4, 2019 at 1:30 P.M.

Tampa, Florida

I. Members Present:

The Honorable Ashley Moody
Professor John Stinneford
The Honorable Michael Andrews
Chief Melanie Bevan
Senator Jason Pizzo
The Honorable Larry Eger
The Honorable Bernie McCabe
The Honorable Donna Mcintosh
The Honorable Michelle Sisco
Secretary Simone Marsteller
The Honorable Charles E. Williams
Present via conference line:
Professor Michael Morley
Sheriff William Snyder
The Honorable Melissa Nelson

Absent:

Sheriff Christopher Nocco

II. The Task Force

Subcommittee Chairs gave a brief update of their work thus far:

Enhancements: The Enhancements subcommittee intends to review minimum mandatories and multipliers to see if they are still relevant and utilized. The subcommittee also intends to review whether more judicial discretion would be appropriate in departing from minimum mandatories in some circumstances, especially related to life sentences for noncapital offenses, by potentially implementing a process similar to that used in Graham/Miller resentencings or potentially an automatic post-incarceration review procedure after a defined period of time to see if the inmate no longer poses a threat to society. A concern was expressed that this could essentially make judges individual parole commissions.

Scoresheets: The Scoresheets Subcommittee has set forth the following objectives:

1. Review and make recommendations regarding offense severity rankings
2. Review and make recommendations for sentencing points under the Criminal Punishment Code
3. Review the number of points necessary to trigger a state prison sanction

4. Review points for primary, additional, and prior offenses
5. Review whether it may be appropriate to adopt a sentencing range, with both upper and lower recommended sentence from which a judge could upwardly or downwardly depart

Non-Prison Sanctions: The Non-Prison Sanctions Subcommittee discussed mental health courts alongside a brief presentation from Lieutenant Toni Roach of the Pasco Sheriff's Department. Currently, 14 Judicial districts have operational mental health courts to address the large subset of offenders who commit crimes due to mental illness or substance dependence. The subcommittee will continue this discussion and will investigate a program based in Martin County that receives Legislative funding for first responders partnering with mental health professionals.

III. Presentations

- Lisa Marguiles, Esq. and Sam Packard of the Crime and Justice Institute presented An Analysis of Florida's Criminal Punishment Code.
- Kenneth Steely of the Florida Department of Corrections presented on the current makeup of Florida's prison population and Sentencing Trends
- The Honorable Gregory Parker and The Honorable Angela Cowden of the Florida Conference of Circuit Judges presented on statutory and non-statutory mitigating factors.

IV. Public Comment

Rodney Statham; Florida Rights Restoration Coalition addressed the task force and recommended that Florida consider adjusting the 85% rule to enable prisoners to earn gain time. He contended that the cost savings to the state could be reinvested in rehabilitative programs, pre and post arrest diversion programs, alternatives to incarceration, mental health programs, substance abuse programs, education and occupational trainings and reentry programs.

The Honorable Michael Peacock; Public Defender's Association, on behalf of the association, recommended the following:

1. More empirical studies to determine the effect of sentencing enhancements (HFO, HVFO, PRR) and minimum mandatory sentences upon the Criminal Punishment Code.
2. Recognition of the impact enhancements have on the code
3. Studies related to county jail time
4. Greater discretion for judges.

Anthony Ryan; Regional Counsel, Office of Criminal Conflict and Civil Regional Counsel, Fourth District, on behalf of the Office, recommended:

1. Divert more low-scoring, low level offenders that likely have only committed nonviolent property or drug offenses.
2. Address the unexplained geographic disparities within The Code.

Joe Kimok; President of the Broward Association of Criminal Defense Lawyers, on behalf of the Association, recommended reinstating an upper guideline sentencing range to reduce unnecessarily long sentences, eliminate a disincentive to go to trial and prevent innocent people from pleading guilty.

Jacqueline Azis; American Civil Liberties Union, presented three recommendations to the Task Force:

1. Modify the 85% rule and allow DOC to incentivize inmate rehabilitation by providing opportunities to earn full gain time. Modifying the 85% rule to 65% allow DOC to reward prisoners who have shown rehabilitation. This would incentivize them to participate programs available to them.
2. Create a sentencing range, which will address the racial and geographic disparities in our system
3. Consider CJI or another group to analyze the racial disparities that exist within our system

V. Discussion

Senator Pizzo requested that the Task Force investigate the origin of the scoresheet formulas and point values.

In response to the presentation given by Mr. Steely, Professor Stinneford inquired what crimes were driving the 4% increase in life sentences. Public Defender Eger and Judge Williams both inquired as to the average cost per inmate by age and increase over time to house aging inmates.

In response to the presentation given by the Crime and Justice Institute, Judge Sisco had the following questions:

- Of the 11% of those who fell between the 22-44 range, how many were a result of violation of probation?
- Were the inmate population growth statistics indexed to population growth within the state?
- Was the increase in operating funds adjusted for inflation?
- What are the stated “irregularities” that caused the researchers to focus on data from 2018 as it relates to slide #13?
 - o The presenters stated that this focus was a result in varied scoresheet compliance across the state from data on scoresheet compliance obtained from the Department of Corrections.

General Moody inquired if any study had been done as to a correlation between the current 48-year crime low and the trend of longer prison sentences.

I. Adjournment

The meeting was adjourned at approximately 3:11 P.M.

An audio recording of the Task Force’s October meeting can be accessed at myfloridalegal.com