

CONNECTICUT SENTENCING COMMISSION

**Connecticut Certificates of Employability
Program Evaluation
2017 Report**



DATE

2017 REPORT

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Report to the Judiciary Committee of
the Connecticut General Assembly
pursuant to C.G.S. §54-301(b)

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Foreword

By statutory mandate, the Connecticut Sentencing Commission (hereinafter referred to as the Commission), established in 2011, is required to, “review the existing criminal sentencing structure in the state and any proposed changes thereto, including existing statutes, proposed criminal justice legislation and existing and proposed sentencing policies and practices and make recommendations to the Governor, the General Assembly and appropriate criminal justice agencies.” (C.G.S. § 54-300(b)).

The Commission recognizes that: (1) the primary purpose of sentencing in the state is to enhance public safety while holding the offender accountable to the community; (2) sentencing should reflect the seriousness of the offense and be proportional to the harm to victims and the community, using the most appropriate sanctions available, including incarceration, community punishment and supervision; (3) sentencing should have as an overriding goal the reduction of criminal activity, the imposition of just punishment and the provision of meaningful and effective rehabilitation and reintegration of the offender; and (4) sentences should be fair, just and equitable while promoting respect for the law.

The Commission consists of 23 members, including judges, prosecutors, criminal defense attorneys, the commissioners of the Departments of Correction, Emergency Services and Public Protection (formerly Public Safety), Mental Health and Addiction Services, the state victim advocate, the executive director of the Judicial Branch Court Support Services Division, the chairperson of the Board of Pardons and Paroles, the undersecretary of the Office of Police and Management Criminal Justice Policy and Planning Division, a municipal police chief and public members appointed by the governor and the leaders of the General Assembly.

The Commission is staffed by an executive director and a research and policy associate. Contracted consultants, academics and subject matter experts provide research, data analysis and public policy review on commission projects. The Institute of Municipal and Regional Policy (IMRP), at Central Connecticut State University, supports the Commission’s professional staff and also provides administrative resources as necessary.

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Introduction

In 2013, the Connecticut Sentencing Commission submitted a proposal to increase the effectiveness of the provisional pardon laws to the General Assembly. The proposal was adopted during the 2014 legislative session: Public Act 14-27, *An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Certificates of Rehabilitation*. The new law gave the Board of Pardons and Paroles (BOPP) and the Judicial Branch Court Support Services Division (CSSD) the authority to issue “certificates of rehabilitation” to persons with criminal convictions whose employment prospects would be enhanced by such a certificate.

Public Act 14-27 requires the Connecticut Sentencing Commission evaluate the effectiveness of the certificate of rehabilitation at, “promoting [the] public policy of rehabilitating ex-offenders consistent with the public interest in public safety, the safety of crime victims and the protection of property.” The evaluation period began October 1, 2015 and continues for three years with reports due in January of 2016, 2017, and 2018. This second report provides continued evaluation of the certificate of employability (COE) implementation process from January 1, 2016 through December 31, 2016.

The first-year report summarized the provisions of Public Act 14-27 and provided an overview of the Board of Pardons and Paroles (BOPP) and Judicial Branch Court Support Services Division (JB-CSSD) policies and procedures to implement Public Act 14-27. The second-year report does not include this information (refer to the first-year report), but does provide descriptive statistics on COE applicants processed in 2016.

The critical finding in the first- and second-year reports is that less than one percent of the estimated 61,000 persons under criminal sentence submitted applications for COEs. That percentage is even smaller when the total number of eligible persons with criminal records no longer under sentence is considered. While the criminal justice system does not track the number of persons with a criminal record no longer under sentence, it was estimated based on National Institute of Justice research that there may be up to one million persons with a criminal record in Connecticut. Therefore, the total number of COE applicants in 2015 and 2016 is inconsequential when compared to the total number of eligible persons. As a result, Sentencing Commission researchers cannot extrapolate any trends from the data because the sample is most likely not representative of the whole eligible population. This, and other limitations to the analysis, renders any conclusions based on the data as to the effectiveness of the program meaningless, except to describe the current COE applicant pool.

This report provides descriptive statistics on those persons who applied for a COE in 2016. No recommendations are made in this report.

Section 1

For the second-year report, the Sentencing Commission researchers again collected descriptive statistics from BOPP, DOC, and JB-CSSD on the administrative process to review COE applications and the demographic data on COE applicants. The agencies have not substantially changed the administrative review process or the data collected on COE applicants.

Persons convicted of a crime and currently under sentence either on probation, parole or other DOC early release program or incarcerated may apply for a COE. Persons with a criminal record who are no longer under sentence may also apply. As set out in the Sentencing Commission's first-year report, JB-CSSD, BOPP and DOC maintain accurate counts of persons currently under sentence: incarcerated or supervised under probation, parole or other early release program. The number of persons with criminal records who are no longer under sentence is not known to any of these agencies and there is no official count of this population in Connecticut. At this point, no suitable proxy measure for this population exists, but this population is clearly greater than the number of persons currently under sentence.

Thus, during the second year of COE program implementation, less than one percent (approximately 0.44 percent) of the total eligible persons under sentence (approximately 61,000 persons) applied for a certificate of employability. This percentage would be even lower if the total eligible population included persons with a criminal record who are no longer under sentence. This is the same as the first-year rate (0.46).

Certificate of Employability Rates

During 2016, JB-CSSD and BOPP processed a combined total of 382 COE applications. There were 162 applications in which the applicants were found to be ineligible and the review process did not continue. Therefore, a total of 220 applications were reviewed and a decision entered by the agencies: JB-CSSD reviewed 49 percent (107) of the applications and BOPP 51 percent (113). The overall grant rate was 66 percent (146) and 22 percent (49) were denied. As of December 2016, 11 percent (25) applications were pending with no decision, which is due to the scheduling of review hearings.

JB-CSSD processed 107 COE applications. Of those applications, 59 percent (63) were granted including 4 with special restrictions, 27 percent (29) denied, and 14 percent (15) were pending with no decision. The majority (104) were granted a general COE and only 3 were granted COE specifically professional licensure.

BOPP processed 275 applications and 162 applicants were ineligible and the review process did not continue. BOPP reviewed 113 eligible applicants and 73 percent (83) were granted, 18 percent (20) denied, and 9 percent (10) were pending with no decision as of December 2016.

Table 1 shows the COE applications processed by JB-CSSD and BOPP in 2015 and 2016. There is no significant difference in the first and second year of the program in terms of the number of persons applying for a COE or the actions taken on those applications by the agencies. Based on this, the utilization rate of the COE program did not see any growth from the first year to the second year and the grant rate was similar. While the question cannot be adequately answered due to the limits of the available COE data, it is interesting to consider why the COE program does not appear to have greater appeal among the offender population.

Table 1. Total COE Applications Processed by JB-CSSD and BOPP		
COE	2015*	2016
JB-CSSD		
Total Applications	133	107
Granted	71	63
Denied	51	29
Pending at end of year	11	15
BOPP		
Total Applications	219	113***
Granted	76	83
Denied	22	20
Pending at end of year**	121	10
*Includes data for October through December 2014.		
**JB-CSSD conducted monthly review hearings whereas BOPP conducted hearings approximately every three months.		
**BOPP reviewed 162 COE applications in which the applicant was deemed ineligible and the review process did not continue.		

Profile of COE Applicants

These following descriptive data are simply a way to describe the applicants seeking a COE. These data cannot be used to draw any meaningful conclusions on the effectiveness of the COE program or why a person with a criminal record would apply for a COE. Overall, the Sentencing Commission researchers found the demographics among COE applicants in the first year (2015) continued throughout the second year (2016).

JB-CSSD applicants. Under the COE program, JB-CSSD has jurisdiction over convicted persons supervised on probation.

JB-CSSD processed 107 COE applications and 65 percent (69) of the applicants were male and 35 percent (38) female. The racial and ethnic breakdown of the applicants was 54 percent (58) were African-American, 35 percent (37) white, 9 percent (10) Hispanic, and 2 percent (2) Asian or unknown race.

An applicant's employment status and history are reported on the COE application. Based on the self-reported data at the time COE application, 45 percent (48) of applicants were employed and 54 percent (58) were not employed.

BOPP applicants. BOPP has jurisdiction to review COE applications from persons incarcerated or under supervision on parole or other early release program and persons with a criminal conviction who are no longer under sentence. Not all applicants had been incarcerated and did not have DOC records. For the purposes of this report, 75 of the 113 applicants processed by BOPP had DOC records. No demographic data was available for the remaining 38 applicants.

Among the applicants processed by BOPP, 71 percent (53) were male and 29 percent (22) female. The racial and ethnic breakdown of the BOPP applicants (with DOC data) was 48 percent (36) African American, 31 percent (23) white, and 21 percent (16) Hispanic.

Section Two: Second Year Conclusions

The second year of evaluation of the certificate of employability program has not provided any meaningful information to address the questions raised in the first-year report about the fundamental public policy intent of the COE program. During the first two years of the program's implementation, there are simply too few COE applicants to make any inferences about its impact on the issues and unintended consequences of a criminal record that the program was intended to address.

Sentencing Commission researchers stress that there are important issues that impede the ability to accurately evaluate or measure the impact of the COE program. Among these issues are the lack of a comparison group to measure changes, a lack of employment data, unclear outcomes of the public policy, and an inability to gauge the value of a COE to applicants and employers.

The COE legislation (Public Act 14-27) is based on three core concepts. First, employment is an important factor in reducing recidivism. Second, a criminal record is often a barrier to obtaining employment. Third, a state-issued certificate of employability is intended to provide relief from the barriers to employment. (Refer to first-year report for detailed discussion of these concepts.)

Public Act 14-27 aims to assist persons with criminal records obtain employment, but it did not amend existing laws or administrative policies that establish employment restrictions for persons with a criminal record. Nor does it attempt to eliminate the unintended consequences of existing policies such as lack access to transportation, education, mental health services, substance abuse treatment, and housing, nor can it address ex-offenders' limited or sparse work history.

During the first two years of the program less than half of one percent (0.45%) of the estimated 61,650 persons under sentence submitted applications for a COE. The percentage is even smaller when the total number of eligible persons with criminal records no longer under sentence is considered. Sentencing Commission researchers recognize the low demand for the program can be function of mobilization (e.g., public information and education), agency infrastructure, or simply no demand for the program by the intended target population. If the certificates do not hold value to employers, offenders will not value the certificate. Also, if offenders do not value employment, they will not seek the certificates.

Sentencing Commission researchers continue to conclude there is not a clear understanding of the problems faced by Connecticut residents with a criminal record attaining and maintaining employment. There is a critical need for a more systematic understanding of the factors that may lead employers to consider and hire persons with criminal records, and of how persons with criminal records can realistically overcome the stigma and practical barriers to reentry (e.g., housing, transportation, health care, reuniting with family, accessing services and treatment). It is

critical to any rigorous evaluation to better understand the needs and dynamics of the applicant population and employer communities. Public Act 14-27 is a well-intended public policy, but lacks a comprehensive understanding of the dynamics between persons with criminal records motivation to work, employers' attitudes toward hiring offenders, and of the legally-created barriers to employment. This is multi-faceted issue that cannot be resolved with a single solution. The COE program appears to offer a simplistic option for offenders seeking or attempting to maintain employment. It may be a solution targeted at the wrong step in the process.

Furthermore, there is no research specific to Connecticut about persons after discharge from criminal sentences and their work histories. Public policy development without a data-driven, comprehensive understanding of the problem can lead to unintended consequences or misapplication of the policy. And, as may be happening with the COE program, failure to meet the needs of the target population.

Data-Driven Evaluation

Public Act 14-27 required the effectiveness of the COE program be evaluated during the first three years of the program's administration. There was no baseline data or analysis of the work history and needs of convicted persons under criminal sentence and those no longer under sentence. Thus, there is no group to compare to COE applications. In addition, because the COE program was implemented with a "one-shot" rollout across the state at the same time, the Sentencing Commission researchers are only able to give descriptive statistics regarding employment and criminal behavior after the program implementation date (October 1, 2014). Because numerous factors unrelated to the COE effect the outcomes of employment and recidivism, Sentencing Commission researchers are also unable to make any definitive statements about the casual impact of the COE program on these outcomes. The Sentencing Commission researchers thus urge legislators and others reading this report to use extreme caution in interpreting the reported descriptive data resulting from the implementation of the COE program.

Public Act 14-27 requires the Connecticut Sentencing Commission evaluate the effectiveness of the COE program. It appears there was an assumption the data existed or could be readily collected to conduct a rigorous analysis. However, given the availability of data and the one-shot roll out of the program, this project can only describe the process and applicant population. Without a comprehensive understanding of the pre-COE baseline, the Commission researchers cannot state with any degree of certainty what changed as a result of the COE program.

The final report will include COE utilization data for 2017 and a demographics on those applicants. The report will also set out the Sentencing Commission researchers' final conclusions and any recommendations for the future application or reform of the COE program.