

2016

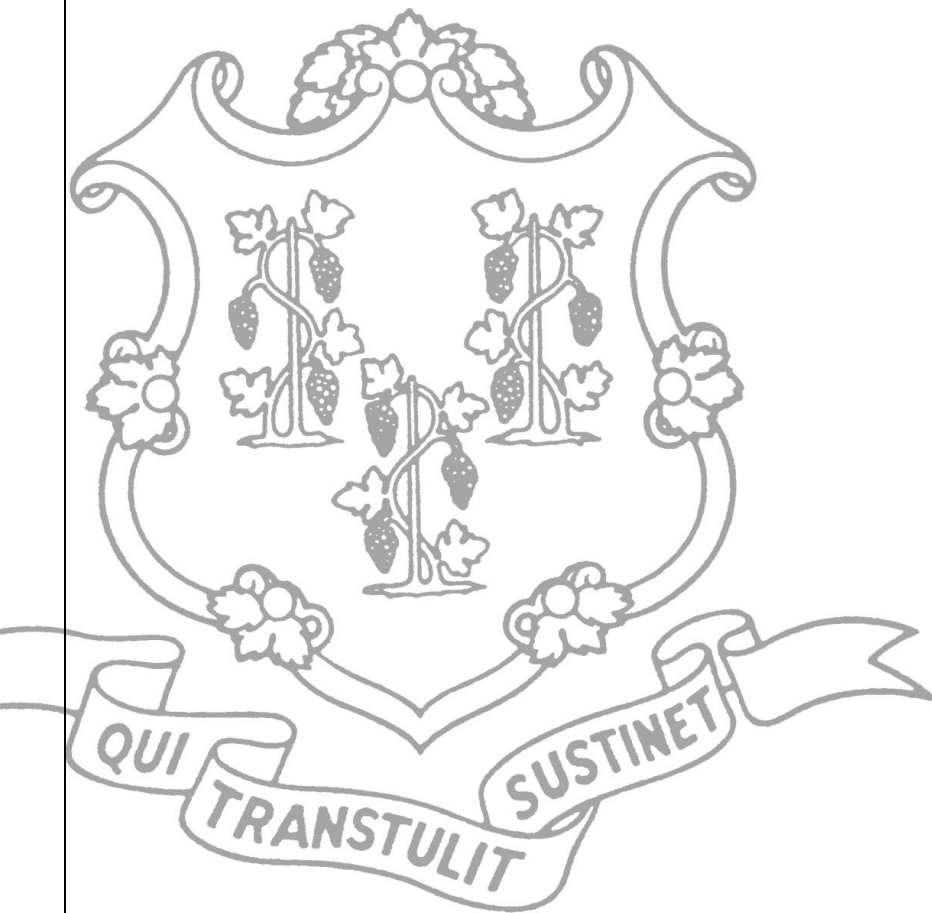


ANNUAL REPORT

CONNECTICUT SENTENCING COMMISSION

Annual Report 2016

Connecticut Sentencing Commission



Report to the Governor,
Speaker of the House of Representatives,
President of the Senate,
and Chief Justice of the Supreme Court,
pursuant to Conn. Gen. Stat. § 54-300(p)
Submitted April 2017

Alex Tsarkov
Executive Director

185 Main Street, Room 212
New Britain, Connecticut 06051
Tel: 860-832-1852
Fax: 860-832-0071
<http://www.ct.gov/ctsc>

Table of Contents

Commission Members 2

Committee & Working Group Members 3

Steering Committee 3

Pretrial Release and Detention Advisory Group 3

Research, Measurement, and Evaluation Committee 3

Special Committee on Sex Offenders 4

Subcommittee on Sex Offender Sentencing 4

Subcommittee on Sex Offender Assessment and Management 5

Subcommittee on Community and Victim Needs 5

Reorganization of Statutes Concerning Illegal Sale of Drugs Work Group 5

Commission Staff 6

I. Executive Summary 7

II. Mission & Membership 8

III. National Overview 9

NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS (NASC) 9

NASC 9

2016 Annual Conference 10

Conference Highlights 10

IV. Activities of the Commission 11

Commission Meetings 11

Mandates 11

Strategic Planning 13

Evidence-Based Sentencing 13

Reorganization of Statutes Concerning Illegal Sale of Drugs Work Group 13

Presentations 15

Committees and Working Groups 16

V. Proposed Legislation and Resolutions 17

VI. Next steps 27

Summary 27

Committees and Working Groups 27

Ongoing Areas of Study 27

Proposed Legislation 2017 27

VII. Appendices 28

Appendix A 29

Appendix B 32

Appendix C 33

Appendix D: 36

Appendix E: 43

Appendix G: 59

Appendix H: 60

Acknowledgements

In 2016, the Connecticut Sentencing Commission commemorated its sixth year of work. The Commission was established by PA 10-129, codified at CGS § 54-300, and became effective on February 1, 2011. From 2013 until his death on August 7, 2016, retired Connecticut Supreme Court Justice David M. Borden served as the Commission chair. Commission members acknowledge and appreciate Justice Borden's initiative in helping to create the Commission as well as his commitment to addressing the criminal justice issues that became the focus of its work this year. His influence and contributions to the Commission's work continues and cannot be overstated.

While the Commission received assistance in its work from sources too numerous to mention, we recognize in particular the dedication of the Steering committee, subcommittees, and working group members. Their consistent commitment and exceptional public service promote the success of the Sentencing Commission and its accomplishments. The Commission and its staff thank all the chairs of the committees, subcommittees, and working groups. Their tireless contributions and support are invaluable to the Sentencing Commission's work.

We also especially thank John Santa who has filled the position of acting chair of the Commission during Justice Borden's absence and since his passing. Commissioner Santa's passion for improving the criminal justice system and his private sector background have greatly benefited the Commission's work.

Finally, the Connecticut Sentencing Commission takes this opportunity to extend its sincere appreciation to state agencies and other organizations for the support they have provided to the Commission. In its major study of pretrial release and detention, the Commission's partnerships with the National Institute of Corrections and Flint Springs Associates provided essential research and analysis. Collaborating with all branches of government, the Sentencing Commission has had input from all stakeholders in the criminal justice system.

Commission Members

John Santa

Acting Chair
Vice Chairman

Santa Energy Corp.

Appointed by: Minority Leader of the Senate

Michael Lawlor

Vice Chair

Undersecretary

Criminal Justice Policy and Planning Division

Office of Policy and Management

Patrick L. Carroll, III

Chief Court Administrator

Appointed by: Chief Justice of the Supreme Court

Robert J. Devlin, Jr.

Chief Administrative Judge for Criminal Matters

Appointed by: Chief Justice of the Supreme Court

Gary White

Administrative Judge

J.D. and GA. 1 Courthouse

Appointed By: Chief Justice of the Supreme Court

Sarah Russell

Professor of Law

Quinnipiac University

Appointed by: Governor

Vivien K. Blackford

Phoenix Association

Appointed by: President Pro Tempore of the Senate

William R. Dyson

William A. O'Neil Endowed Chair

Central Connecticut State University

Appointed by: Speaker of the House of Representatives

Maureen Price-Boreland

Executive Director

Community Partners in Action (CPA)

Appointed by: Majority Leader of the House of Representatives

Thomas Kulhawik

Chief of Police

Norwalk Police Department

Appointed by: Majority Leader of the Senate

Robert Farr

Attorney (Retired)

Appointed by: Minority Leader of the House of Representatives

Kevin Kane

Chief State's Attorney

Ex officio: Chief State's Attorney

Susan O. Storey

Chief Public Defender

Ex officio: Chief Public Defender

David Shepack

State's Attorney

Judicial District of Litchfield

Appointed by: Chief State's Attorney; Qualification: State's Attorney

Thomas J. Ullmann

Public Defender

Judicial District of New Haven

Appointed by: President of the Connecticut Criminal Defense Lawyers Association

Mark A. Palmer

Chief of Police

Coventry Police Department

Appointed By: President of the CT Police Chiefs Association;

Miriam Delphin-Rittmon, Ph.D.

Commissioner

Department of Mental Health and Addiction Services

Ex officio: Commissioner of the Department of Mental Health and Addiction Services

Natasha Pierre

State Victim Advocate

Ex officio: State Victim Advocate

Stephen Grant

Executive Director

Court Support Services Division (CSSD)

Appointed by: Chief Justice of the Supreme Court

Dora B. Schriro

Commissioner

Department of Emergency Services & Public Protection

Ex officio: Commissioner of Emergency Services & Public Protection

Scott Semple

Commissioner

Department of Correction

Ex officio: Commissioner of the Department of Correction

Carleton Giles

Chair

Board of Pardons and Paroles

Ex officio: Chair of the Board of Pardons and Paroles

Committee & Working Group Members

Steering Committee

Name	Affiliation
Michael Lawlor, <i>Chair</i>	Office of Policy & Management
Maureen Price-Boreland	Community Partners in Action
Kevin Kane	Office of the Chief State's Attorney
John Santa	Santa Energy Corporation
Vivien Blackford	Phoenix Association
Patrick Carroll	Chief Administrative Judge
Thomas Ullmann	Division of Public Defender Services

Pretrial Release and Detention Advisory Group

Name	Affiliation
Theresa Dalton	Division of Public Defender Services
Robert J. Devlin, Jr., <i>Chair</i>	Chief Administrative Judge for Criminal Matters
Thomas Kulhawik	Norwalk Police Department
Karl Lewis	Department of Correction
Natasha Pierre	Office of the Victim Advocate
Gary Roberge	Judicial Branch Court Support Services Division
Sarah Russell	Quinnipiac University School of Law
John Santa	Malta Justice Initiative
David Shepack	Litchfield State's Attorney's Office
Bryan Sperry	Judicial Branch Court Support Services Division
Alex Tsarkov	Connecticut Sentencing Commission

Research, Measurement, and Evaluation Committee

Name	Affiliation
Stephen Grant, <i>Co chair</i>	Judicial Branch Court Support Services Division
Thomas Ullmann, <i>Co-chair</i>	Division of Public Defender Services
Thomas Kulhawik	Norwalk Police Department
Robert Farr	Board of Pardons and Paroles (<i>Retired</i>)
John Santa	Santa Energy Corporation
Vilmaris Diaz-Doran	Board of Pardons and Paroles
Michael Norko	Department of Mental Health and Addiction Services
David Rentler	Board of Pardons and Paroles
Linda Frisman	Department of Mental Health and Addiction Services

Special Committee on Sex Offenders

Name	Affiliation
Brian Austin	Office of the Chief State's Attorney
Vivien Blackford	Phoenix Association
Linda J. Cimino	Office of Victim Services
Laura Cordes	Connecticut Alliance to End Sexual Violence
David D'Amora	Council of State Governments
Robert Devlin	Chief Administrative Judge for Criminal Matters
Robert Farr, <i>Co-chair</i>	Board of Pardons and Paroles (<i>Retired</i>)
Stephen Grant, <i>Co-chair</i>	Judicial Branch Court Support Services Division
Karen Martucci	Department of Correction
David McGuire	American Civil Liberties Union
Mark Palmer	Coventry Police Department
Natasha Pierre	Office of the Victim Advocate
David Rentler	Board of Pardons and Paroles
Lisa Tepper Bates	Connecticut Coalition to End Homelessness
Thomas Ullmann	Division of Public Defender Services
Antoinette Webster	Department of Emergency Services and Public Protection

Subcommittee on Sex Offender Sentencing

(Reports to Special Committee on Sex Offenders)

Name	Affiliation
Brian Austin, <i>Co-chair</i>	Office of the Chief State's Attorney
Laura Cordes	Connecticut Alliance to End Sexual Violence
Robert Devlin	Chief Administrative Judge for Criminal Matters
Amy Eppler-Epstein	New Haven Legal Assistance Association
Deborah Fuller	Judicial Branch Court Support Services Division
Lee-Ann Gomes	City of Norwich
Karen Martucci	Department of Correction
Erin Miller	CT Fair Justice
Sarah Russell	Quinnipiac University School of Law
John Smriga	Fairfield State's Attorney's Office
Deborah Del Prete Sullivan	Division of Public Defender Services
Thomas Ullmann, <i>Co-chair</i>	Division of Public Defender Services

Subcommittee on Sex Offender Assessment and Management

(Reports to Special Committee on Sex Offenders)

Name

Vivien Blackford
Laura Cordes
Alison Cunningham
David D'Amora
Eric Ellison
Matthew Garcia
Catherine Heffernan
Natasha Pierre
David Rentler, *Co-chair*
Gary Roberge, *Co-chair*
Robert Santoemma
Lisa Tepper Bates

Affiliation

Phoenix Association
Connecticut Alliance to End Sexual Violence
Columbus House
Council of State Governments
Department of Correction
Connecticut State Police
Division of Public Defender Services
Office of the Victim Advocate
Board of Pardons and Paroles
Judicial Branch Court Support Services Division
Judicial Branch Court Support Services Division
Connecticut Coalition to End Homelessness

Subcommittee on Community and Victim Needs

(Reports to Special Committee on Sex Offenders)

Name

Thomas Canny
Linda J. Cimino
Laura Cordes, *Co-chair*
Matthew Garcia, *Co-chair*
Stephen Grant
Gail Hardy
Karen Jarmoc
David McGuire
Frank Mirto
Mark Palmer
Robert Santoemma
David Snyder
Richard Sparaco
Thomas Ullmann
Antoinette Webster

Affiliation

Judicial Branch Court Support Services Division
Office of Victim Services
Connecticut Alliance to End Sexual Violence
Connecticut State Police
Judicial Branch Court Support Services Division
Hartford State's Attorney's Office
Connecticut Coalition Against Domestic Violence
American Civil Liberties Union
Department of Correction
Coventry Police Department
Judicial Branch Court Support Services Division
Department of Correction
Board of Pardons and Paroles
Division of Public Defender Services
Department of Emergency Services and Public Protection

Reorganization of Statutes Concerning Illegal Sale of Drugs Work Group

Name

Brian Austin
Deborah Del Prete Sullivan
Robert Devlin
Robert Farr
Richard Taff

Affiliation

Office of the Chief State's Attorney
Division of Public Defender Services
Chief Administrative Judge for Criminal Matters
Board of Pardons and Paroles (Retired)
Chief Attorney (Retired), Legislative Commissioners' Office

Commission Staff

Alex Tsarkov
Executive Director

Andrew Clark
Commission Advisor

Leland J. Moore
Staff Attorney

Mary M. Janicki
Research Consultant

Renee La Mark Muir
Research Consultant

Miguel DeFigueiredo
Research Consultant

Gus Marks-Hamilton
Intern

Rocco Morgan
Student worker

Samantha Oden
Intern

Julianna Yee
Intern



I. Executive Summary

In a year marked by increased growth and activity, the Commission's accomplishments in 2016 were significant. After accepting Governor Dannel Malloy's request to evaluate Connecticut's current bail bond system, the Commission partnered with the National Institute of Corrections (NIC), a federal agency within the U.S. Department of Justice, and solicited the expertise of academics and practitioners both statewide and nationally. It completed its study and in February 2017 submitted its report on Pretrial Release and Detention. The Connecticut General Assembly's Judiciary Committee has voted to raise and consider a bill enacting the study findings.

A Special Committee on Sex Offenders issued its interim report on the study of the sexual offenders registration system and that group, along with its subcommittees, continues its review. The Commission began (also in response to the governor's request) its evaluation of pretrial diversionary programs in the state. The Commission will partner with the Results First Initiative to evaluate the state's statutory diversionary programs.¹ It advanced its study of evidence-based sentencing through a partnership with the University of Maryland's Department of Criminology and Criminal Justice. In addition, the Commission continued its

evaluation of Certificates of Employability and its research regarding the automatic erasure of criminal history records. Finally, a Commission work group drafted a technical bill for submission to the Judiciary Committee that would reorganize statutes related to the illegal sale of controlled substances.

An ad hoc committee drafted and the Commission adopted bylaws that formally addressed its authority and duties, structure, meetings, and procedures.

During the 2016 legislative session, the General Assembly passed the Commission's proposal to conform state statutes to case law on the ban on carrying certain weapons in a vehicle (PA 16-178). Its proposal with respect to victim notification of parole and other release eligibility laws for defendants did not pass, but has been reintroduced in the 2017 legislative session.

This report provides details on the Commission's activities, efforts, and achievements over the past year. It describes the status of ongoing studies and projects, including legislative proposals for the 2017 session of the Connecticut General Assembly. The report also addresses the Commission's continuing activity and next steps.

¹ The Pew-MacArthur Results First Initiative, a project of The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation, works with states to

implement an innovative cost-benefit analysis approach that helps them invest in policies and programs that are proven to work.

II. Mission & Membership

The Connecticut Sentencing Commission was established on February 1, 2011 by Public Act 10-129.² Its mission, as stated in the statute, is 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.”³

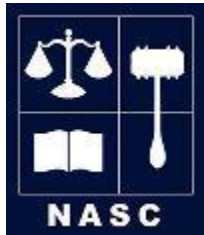
The Commission consists of 23 voting members, including judges, prosecutors, criminal defense counsel, the commissioners of the departments of Correction, Emergency Services and Public Protection, and Mental Health and Addiction Services, the victim advocate, the executive director of the Court Support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

During 2015, the Commission welcomed three new members and a new vice chair. Incoming new Commissioners included Miriam Delphin-Rittmon, Sarah Russell and Thomas Kulhawik. These replaced Patricia Rehmer, Susan Pease, and Peter Gioia. John Santa replaced Michael Lawlor as Commission Vice-Chair.

² The provisions of the public act have been codified in General Statutes § 54-300.

³ See Appendix A for the full text of C.G.S. § 54-300.

III. National Overview



NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS (NASC)

NASC

The National Association of Sentencing Commissions (“NASC”) is a non-profit organization whose mission is “to facilitate the exchange and sharing of information, ideas, data, expertise, and experiences and to educate individuals on issues related to sentencing policies, guidelines,

and commissions.⁴

NASC does not endorse any single sentencing structure but rather supports the development of rational and effective sentencing policy, which can be achieved in various forms. NASC membership includes states with or without sentencing guidelines, states with presumptive or voluntary guidelines, and states with determinate or indeterminate sentencing practices. It is not the structure of the sentencing system but rather the goals of that system that are important to the development of good sentencing policy

NASC concentrates on providing its membership with the tools to develop a sentencing system that reflects the priorities and values of individual states. By sharing research findings on topics associated with sentencing policy, such as the use of intermediate punishment options, the effectiveness of substance abuse treatment, and recidivism rates, states are able to incorporate these findings into the development of a sentencing system that appropriately addresses specific areas of concern or need.

In addition, NASC provides a forum to exchange experiences among the states regarding both successes and failures in sentencing reform. Seldom does a state face a problem that has not been dealt with in some fashion or form by another state. Sharing information and learning from one another has been the primary focus of NASC activities since its inception.

⁴ Additional information about the National Association of Sentencing Commissions (NASC) is available at: <http://thenasc.org/aboutnasc.html>.

2016 Annual Conference

In keeping with this mission, NASC holds an annual conference to examine our nation's experiences with sentencing laws and practices and to discuss emerging issues and innovations. In 2016, the conference, entitled "Examining the Interactions between Policy and Sentencing," was hosted by the Utah Sentencing Commission and held at the SJ Quinney College of Law, University of Utah. The conference was held in August at the Little America Hotel in Salt Lake City.

Alex Tsarkov, the Connecticut Sentencing Commission's executive director, attended the conference.



Conference Highlights

The two-day conference brought together a diverse group of criminal justice professionals, researchers and academics from across the country. The conference consisted of a keynote and four plenary sessions, and six breakout sessions. Below are a few of the many topics addressed during the conference.

Keynote and Plenary Sessions

- Collaborative Approaches to Reversing the School-to-Prison Pipeline
- Evidence-Based Short-Term Interventions for Lower Level Offenses
- Public Attitudes Toward Criminal History Enhancements: What Do the People Think?
- Recidivism among Federal Offenders: A Comprehensive Overview
- How High Profile Cases Impact Sentencing Policy

Breakout Sessions

- How Do Sentencing Commissions Stay Relevant?
- The Role of Guidelines in Delivering Procedural Justice
- Lessons Learned from Large-Scale Reform
- Policy Evaluations of Recent Sentencing Reforms
- Basing Pre-Trial Release Decisions on More than Gut Instinct Alone
- Sentencing Guidelines and Probation

IV. Activities of the Commission



Photo credit to Michelle Lee

In 2016, the Sentencing Commission worked on the following issues:

- Research and approval of its report to the governor and General Assembly on pretrial release and detention.
- Significant progress in its study of the registration, management, and sentencing of sex offenders and adoption of interim report.
- Development and adoption of its own bylaws that govern the Commission's structure and procedures.
- Designation of the University of Maryland Department of Criminology and Criminal Justice to study evidence-based sentencing.
- Draft of a proposed technical revision to reorganize statutes concerning the illegal sale of drugs.
- Pursuant to its study of victim notification (as required by Section 10 of PA 15-84), support of its 2016 legislative proposal (HB 5631), which did not pass but has been resubmitted in the 2017 legislative session (HB 7262).
- Progress on its study and analysis of pretrial diversionary programs.
- Passage of its legislative proposal concerning weapons in vehicles (PA 16-178, Appendix B).
- Completion and approval of its report on certificates of employability.

Commission Meetings

The Commission is required by statute to meet at least four times a year. In 2016, the Commission held five regular meetings on January 14, March 10, June 9, September 8, and December 8. In addition, the Steering Committee met seven times; the Pretrial Release and Detention Advisory Group met three times and held a public hearing; the Research, Measurement, and Evaluation Committee met once; and the Special Committee on Sex Offenders and its three subcommittees and work groups met a total of 22 times.

Mandates

On November 5, 2015, Governor Dannel P. Malloy asked the Sentencing Commission to study two aspects of Connecticut's system of pretrial release and incarceration: (1) the current bail bond system

and (2) existing jail diversionary programs. (Appendix C). On December 24, 2015, the Commission submitted its response, agreeing to examine both issues and submit its findings for consideration in the 2017 legislative session. The Commission submitted its report on “Pretrial Release and Detention in Connecticut” in February 2017 and is committed to completing its study of Pretrial Diversionary Programs as requested by Governor Malloy in the coming year.

There was no legislation adopted in the 2016 General Assembly session that imposed a mandate on the Commission. A bill (sSB 467) that would have required the Commission to review the costs of retaining municipal police officer body camera data and report to the Judiciary Committee did not pass.

Pretrial Release and Detention

The Commission established a Pretrial Release and Detention Advisory Group to oversee the development of the study scope, research, and analysis for the bail bond system evaluation. The group held three meetings over the course of the year and a public hearing. On February 2, 2017, the Commission approved and adopted the “Pretrial Release and Detention in Connecticut” report for submission to the governor and the General Assembly (Appendix D). In addition, on February 8, 2017, the Judiciary Committee voted to raise a bill, “An Act Concerning Recommendations of the Connecticut Sentencing Commission with Respect to Pretrial Release and Detention.”

The report’s eight recommendations included legislative proposals to (1) require a recorded court finding prior to imposing secured financial conditions in misdemeanor cases, (2) reduce the bail review period for individuals detained on secured financial conditions, and (3) allow defendants to deposit 10% of a bond amount when a surety bond less than \$10,000 is imposed. The Commission also recommended that bail staff have the opportunity to review and make release decisions after a warrantless custodial arrest and that the Judicial Branch, its

Division of Public Defender Services, and the Division of Criminal Justice have adequate support and resources to consider alternatives to prosecution. In addition, lawyers, judges, and other stakeholders should receive regular training on current best practices in the area of pretrial release and detention decision making. Finally, the Sentencing Commission should continue to evaluate the effectiveness and fairness of Connecticut’s pretrial justice system and continue to investigate the feasibility of a carefully limited preventive detention system.

Sex Offenders

Special Act 15-2 (Appendix E) required the Commission to take a comprehensive look at the registration, management, and sentencing of sex offenders in Connecticut and submit reports to the General Assembly on February 1, 2016 and December 15, 2017.

In response, the Commission formed the Special Committee on Sex Offenders to assist with the study, develop recommendations, and report its findings to the Commission. The Special Committee is comprised of 16 individuals with a broad base of knowledge of and experience with sex offender laws and defendants in Connecticut. The executive director of the Judicial Branch’s Court Support Services Division and the former chair of the Board of Pardons and Paroles serve as committee co-chairs. The Special Committee met five times in 2016.

To further focus its work, the Special Committee established three subcommittees: (1) Sentencing, (2) Assessment and Management, and (3) Community and Victim Needs. At its January meeting the Sentencing Commission reviewed and approved the Special Committee’s interim report (Appendix F). After soliciting expert and stakeholder presentations on the issues, the Special Committee’s interim report details its subcommittees’ responsibilities, the proposed study scope, and the focus of its analysis.

It scheduled a public hearing on sex offender registration, sentencing, and management for January 25, 2017.

Strategic Planning

Beginning in 2011, the Commission began a strategic planning process and in December 2015 adopted an action plan that included a series of goals, objectives, and strategies for the Commission to implement over the next five years.

In 2016, the process focused on the Commission's voting procedures and committee structure, in particular the vote required to approve Commission actions and resolutions and qualifications for membership on Commission committees and whether to continue to have standing committees or utilize only *ad hoc* committees.

Commission member Maureen Price-Boreland and staffer Attorney Leland Moore took on the task of reviewing and revising voting procedures and committee structure that resulted in proposed bylaws.

At its October 26 meeting, the Steering Committee approved the bylaws as amended and agreed to forward to the Commission its proposal. Members of the full Commission submitted comments and on November 22 the Steering Committee once again approved the proposal with technical amendments for submission to the full Commission. The Commission voted to adopt the bylaws at its December 8 meeting.

Evidence-Based Sentencing

To conduct this non-funded study, the Commission issued an Invitation for Proposals on October 5, 2015, with a due date of December 4, 2015. On January 12, 2016, the Research, Measurement, and Evaluation Committee considered the findings of the proposal review committee and voted to forward its recommendation to the Steering Committee. On March 10, the full Commission voted to adopt Resolution 2016-01 that approves the University of Maryland's proposal to study an evidence-based assessment of sentencing practices in Connecticut. The Maryland researchers in the Department of Criminology and Criminal Justice will evaluate the potential impact of needs- and risk-based sentencing. (See Section V for the proposed research plan).

Reorganization of Statutes Concerning Illegal Sale of Drugs Work Group

An *ad hoc* working group met to develop and recommend enactment of a technical recodification of state statutes dealing with the illegal sale of drugs. At a November 22 meeting, Attorney Rick Taff, formerly of the General Assembly's Legislative Commissioners' Office, presented to the Steering Committee a draft proposal to prepare a revision of the state's drug laws. On December 8, the full Commission approved Resolution 2016-02 (see Section V) to recommend that the General Assembly enact the technical corrections legislation proposed by the work group.

Victim Notification

Public Act 15-84 (Appendix G) directed the Commission to examine how crime "victims may be notified of parole eligibility laws and any other release mechanisms governing cases where a person is convicted of one or more crimes and receives a definite sentence or total effective sentence of more than two years for such crime or crimes." Pursuant to

the act, the Commission submitted its report with recommendation to the Judiciary Committee on December 23, 2015.

A working group crafted its recommendation to ensure that crime victims have increased access to information regarding a defendant's term of imprisonment and release date. Specifically, the recommendation requires that the court, in certain cases, provide a more detailed explanation of the release mechanisms that a defendant might be eligible for. Furthermore, at a victim's request, similar information must be provided by the prosecutor prior to the acceptance of a plea agreement. The recommendation also requires the Department of Correction to make general offender sentencing information available to the public.

In the 2016 legislative session, the Judiciary Committee raised the Commission's proposal (HB 5631) and, after a March 18 public hearing, unanimously reported the bill to the House of Representatives. The House passed the bill unanimously on May 3 (the day before the last day of the 2016 session), but the bill died on the Senate calendar.

In the 2017 legislative session, the Judiciary Committee raised the same bill on February 8, 2017.

Pretrial Diversionary Programs

The Commission has developed and approved a scope for this study, summarized the details of the 10 diversionary programs that are the subject of the evaluation, and requested from the Judicial Branch's Court Support Services Division (JB-CSSD) and the Department of Mental Health and Addiction Services the data required to analyze program outcomes on participants' rate of recidivism. Once the data analysis is complete, the Commission will review the findings and make its recommendations.

Certificates of Employability Program Evaluation

On October 1, 2014, the Board of Pardons and Paroles (BOPP) and JB-CSSD were authorized to award certificates of employability to eligible individuals. Pursuant to the same act that authorized the program, the Commission is required to collect and disseminate data on the program and conduct a four-year longitudinal evaluation of its effectiveness. The act also requires the Commission to submit three annual reports due in January 2016, 2017, and 2018 respectively. The first report, presented to the Commission and approved at its June 9, 2016 regular meeting provides an overview of JB-CSSD and BOPP policies and program implementation and a data-driven description of the applicants and certificate holders. The report contains the Commission staff's findings and recommendations based on the program's first year.

Presentations

The Sentencing Commission's regular meetings provide a forum for education and information sharing on local, state, and national criminal justice issues. During 2016, the full Commission or its committees heard presentations on the topics listed below.

Special Committee on Sex Offenders

The Special Committee hosted a series of local and national presenters to provide information on topics such as sentencing, assessment, management, and treatment of sex offenders.

Pretrial Release and Detention

Timothy Schnacke of the National Institute of Corrections (NIC) made a presentation at the March 10 Commission meeting on "Legal and Evidence-Based Pretrial Release and Detention." He discussed in detail the fundamental principles, origin, and history of pretrial release and detention in the United States and a model framework for a pretrial justice system.

The Pretrial Release and Detention for Advisory Group requested additional information on the issue from Judge Truman Morrison of Washington, D.C. and representatives of the bail bond and insurance industry. It held a public hearing on November 3.

Professor Kim Buchanan presented the consequences of pretrial incarceration to the Advisory Group on October 19.

Committees and Working Groups

Steering Committee

The Steering Committee is established through the Commission bylaws (Article VI, Section 6.1) to supervise the Commission's affairs between its regular meetings. Generally, it supervises the Commission's budget, administration, and research activities. The Steering Committee met seven times during the year. It directed the strategic planning focus on bylaw changes and received periodic updates and provided input on the studies of pretrial release and detention, sex offenders, and pretrial diversionary programs. It approved the evidence-based sentencing proposal applications and referred its recommendations to the full Commission. The Steering Committee also initiated the suggestion to make technical revisions to drug statutes and asked Attorney Rick Taff to develop a draft.

Pretrial Release and Detention Advisory Committee

This advisory committee met three times to oversee the staff's research and analysis, consider data presentations, and develop recommendations.

Special Committee on Sex Offenders

The Special Committee on Sex Offenders held five special committee meetings. Its subcommittees met as follows: (1) Assessment and Management—six times, (2) Community and Victim Needs—six times (and work groups for this subcommittee met twice), and (3) Sentencing—three times. The full Commission approved its Interim Report on January 14, 2016. Later in the year, it scheduled a subject matter public hearing for January 25, 2017.

Research Committee

The Research, Measurement, and Evaluation Committee met once (January 12, 2016) to consider the proposal from Dr. Linda Frisman of the Department of Mental Health and Addiction Services that the Steering Committee consider issuing an Invitation for Proposals to investigate evidence-based sentencing (based on need and risk). The evaluation project, awarded to the University of Maryland, was approved in Resolution 2016-01 (see Section V below).

--	--

[illegible]

**ADOPTED
03/10/2016**

CONNECTICUT SENTENCING COMMISSION

No. 2016-01

**Proposed Resolution Regarding an Evaluation of the Impact of Risk and Needs
Based Sentencing in Connecticut**

Resolution

RESOLVED, That the Connecticut Sentencing Commission work with the University of Maryland's Department of Criminology and Criminal Justice to conduct an evidence based assessment of the potential impact of needs and risk-based sentencing in the State of Connecticut.

Report

See attached University of Maryland research proposal dated December 1, 2015.



UNIVERSITY OF MARYLAND

COLLEGE OF BEHAVIORAL AND SOCIAL SCIENCES

Department of Criminology and Criminal Justice

2220 LeFrak Hall
College Park, Maryland 20742-8235
301.405.4699 TEL 301.405.4733 FAX
www.ccjs.umd.edu

December 1, 2015

RE: Research Proposal for Evidence-Based Sentencing Study

Dear Commissioners:

Please find enclosed our formal research proposal for an evidence-based assessment of sentencing practices in Connecticut. Our goal is to assist the Connecticut Sentencing Commission in evaluating the potential impact of needs and risk-based sentencing in the state while also providing a meaningful foundation for future dissertation research on the topic. We have been involved in similar, ongoing efforts to consider risk-based sentencing in Maryland and we share the Commission's views on the importance of evaluating these types of important policy innovations.

One primary investigator is an established scholar in the field of empirical sentencing research who has published more than two dozen studies in top peer-reviewed journals across a variety of topics related to sentencing. Much of this work has been funded by external agencies, such as the National Science Foundation and the National Institute of Justice. He has considerable experience conducting sophisticated statistical analyses of large sentencing datasets, writing grant reports and publishing academic papers. He is also currently serving as the Criminal Justice Policy Expert on the State Commission on Criminal Sentencing Policy in Maryland – an organization that is also involved in evaluating risk and needs assessments in sentencing. The second primary investigator is a fourth-year doctoral student in the Department of Criminology and Criminal Justice at the University of Maryland. She is one of the most outstanding graduate students in the department. She has presented her scholarly work at prestigious conferences such as the American Society of Criminology and is interested in the Connecticut Sentencing Commission data for her dissertation.

Below we outline our proposed research plan for evaluating the potential impact of evidence-based practices on both sentencing and post-release outcomes, followed by our curricula vitae and a sample of three published works. Our plan includes the selection and cleaning of appropriate cases for analysis, the building of a unified dataset to study sentencing and recidivism outcomes, and a broad range of applicable statistical analyses to assess the impact of risk and needs based approaches to sentencing policy in the state. We look forward to a productive and mutually-beneficial partnership with the Commission. Please feel free to contact us directly with any questions or concerns.

Sincerely,

Brian D. Johnson
Associate Professor of Criminology and Criminal Justice

Rebecca Richardson
Doctoral Student in Criminology and Criminal Justice

James P. Lynch
Professor and Chair of the Department of
Criminology and Criminal Justice

Background on Evidence-Based Sentencing

Evidence-based sentencing uses actuarial assessment to shape sentencing decisions. To clarify, actuarial assessment has been defined as the application of “an objective, mechanistic, reproducible combination of predictive factors, selected and validated through empirical research,” and applied to key “outcomes that have also been quantified” (Heilbrun, 2009: 133). Actuarial risk assessments in the criminal justice system have been variously used to identify low-risk offenders, good candidates for particular programs, and those at high risk of future violent offending (Cullen & Gendreau, 2000). These assessments often contain a variety of risk, protective, and needs factors, both static and dynamic, that have been shown to influence offender risk and future recidivism. The Level of Service Inventory- Revised (LSI-R) is the most popular prediction instrument in use among states that have not adopted their own state-specific instruments. Risk assessment tools have been primarily applied to criminal justice decisions that fall outside the purview of sentencing decisions, though select states like Virginia, Pennsylvania, Missouri, and Utah have begun to integrate risk assessments into sentencing.

The goal of evidence-based sentencing is to reduce recidivism by more effectively identifying a) which offenders can be given non-custodial sentences without compromising public safety and b) which offenders are at the highest risk for recidivating (Hyatt et al., 2011). Using incarceration more effectively allows for public resources to be used efficiently. The use of risk assessments may appeal to citizens, as it fosters transparency, provides more objectivity, and has been scientifically validated prior to implementation (Hyatt et al., 2010; Van Nostrand & Lowenkamp, 2013). On the other hand, some critics have expressed concern about constitutionality (Starr, 2014), the potential for “statistical discrimination” and large margins of error in assessments of individual risk (Hart et al., 2007; Cook & Michie, 2010), and the effects of false positives and false negatives (Berk et al., 2009; Berk & Bleich, 2014).

There are many examples of actuarial assessment methodologies that have outperformed human judgment within the criminal justice system (e.g. Andrew et al., 2006; Latessa & Lovins, 2010; Skeem & Monahan, 2011; Pew Center for the States, 2011; Casey et al., 2011). Starr (2014), however, argues that most of the empirical evidence on risk prediction instruments does not even address the correct question. That is, it does not evaluate the effect of a particular sentencing decision on recidivism risk. Identifying high-risk and/or low-risk offenders has utility only if that identification is used to impact sentencing and subsequently decrease recidivism. It is thus important to examine the extent to which the use of risk and needs assessment *changes* sentencing procedures and can help to identify those offenders who are most at risk of serious and violent reoffending. The aims of the Connecticut Sentencing Commission appear to be in alignment with this line of reasoning; the proposed project therefore focuses on differential outcomes between actual sentences and evidence-based sentencing, on the predictive ability of risk/needs assessment tools in sentencing, and on the long-term potential to improve fairness and effectiveness in criminal sentencing policy through the implementation of evidence-based sentencing approaches.

Summary of Investigators’ Qualifications

The primary investigators for this project are Dr. Brian D. Johnson and Rebecca Richardson. Dr. Johnson has been conducting empirical research on sentencing for more than a decade. He has published dozens of articles on various aspects of criminal sentencing policy, including racial and ethnic disparities, contextual variations in punishment, and the use of advanced statistical techniques

to better understand decision-making processes among members of the courtroom workgroup. Dr. Johnson was recently appointed to serve as the Criminal Justice Policy Expert on the Maryland State Commission on Criminal Sentencing Policy. Prior to that he served as a consult with the Maryland Data Analysis Center (MDAC) working on a preliminary assessment of risk and needs based sentencing in Maryland. Rebecca Richardson is a fourth-year doctoral student in the Department of Criminology & Criminal Justice at the University of Maryland. She studies criminal court decision-making, sentencing, and gender and race disparities in the criminal justice system. She is currently co-authoring a paper that uses multilevel modeling to look at inter-judge variation in the effects of offender appearance characteristics on sentencing outcomes. Ms. Richardson works as a research assistant for Dr. Johnson in the Department of Criminology and Criminal Justice at the University of Maryland. She will work closely with Dr. Johnson on this project, serving as the primary project supervisor.

Proposed Research Plan

Dr. Johnson and Ms. Richardson agree to fulfill the full duties and conduct the proposed analyses outlined in the invitation for proposals. They will first clean the data and select appropriate cases for analysis before reporting back to the State of Connecticut with information about the final sample. To consider the differences between actual and evidence-based sentencing, they will then stratify the sample into three offense severity categories and compare actual sentence lengths with risk/needs assessment scores using tertiles within each offense severity category. The characteristics of those cases whose sentence length and risk assessment score groups do not align will be assessed. To determine the time to rearrest or revocation of probation for prisoners and probationers, they will use semiparametric survival analyses, such as Cox modeling, and address censoring issues where needed. For offenders who were sentenced to incarceration, survival analysis will begin at the time of release from prison. To compare differences in the nature of violations among the risk/needs assessment score groups, they will use Chi-square tests. To compare differences in the rates of violations among the risk/needs assessment score groups, they will use Analysis of Variance (ANOVA) techniques as well as multiple regression analysis. To identify risk factors that differentiate between those offenders who do and do not violate probation with either a new or technical offense, they will use Classification and Regression Trees (CART). Supplementary clarifying analyses, such as robustness checks or alternate modeling specifications, will be conducted and reported as needed.

In addition to the analyses suggested by the Connecticut Sentencing Commission, Ms. Richardson will use the data to conduct related research for her dissertation. Depending on the exact information available in the dataset, she is interested in using the data to perform trajectory analyses of offender punishments as well as to evaluate the effects of individual variables within the LSI-R subscale scores on sentencing and recidivism outcomes. Due to the sensitivity of the data, the dissertation will not make use of any personal identifiers, and it will categorically mask the identity of state, referring only to data from “a Northeastern state.” Furthermore, no additional analyses will be conducted without written approval from the Connecticut Sentencing Commission.

Conclusion

Dr. Johnson and Ms. Richardson are excited to work with the State of Connecticut and conduct the evidence-based sentencing assessments laid out by the Connecticut Sentencing Commission. Dr. Johnson has an impressive record of experience working with large sentencing datasets, evaluating

risk assessments, and performing the types of sophisticated analyses required for this project. Ms. Richardson has demonstrated superior performance as a doctoral student and is prepared to conduct meaningful research for her dissertation using Connecticut's sentencing data. They believe that this partnership will be mutually beneficial for Connecticut and the researchers, providing valuable information about the effects of evidence-based sentencing to the State of Connecticut and laying the foundation for subsequent dissertation work.

**ADOPTED
12/8/2016**

CONNECTICUT SENTENCING COMMISSION

No. 2016-02

**Proposed Resolution Regarding a Technical Reorganization of Statutes
Involving the Illegal Sale of Controlled Substances**

Resolution

RESOLVED, That the Connecticut Sentencing Commission requests that the Connecticut General Assembly amend the Connecticut General Statutes by enacting, “An Act Concerning the Recommendations of the Connecticut Sentencing Commission With Respect to a Technical Reorganization of Statutes Involving the Illegal Sale of Controlled Substances” dated December 2016.

Proposed Statutory Language

***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT
SENTENCING COMMISSION WITH RESPECT TO A TECHNICAL REORGANIZATION OF
STATUTES INVOLVING THE ILLEGAL SALE OF CONTROLLED SUBSTANCES.***

Section 1. Section 21a-277 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

[(a) Any person who manufactures, distributes, sells, prescribes, dispenses, compounds, transports with the intent to sell or dispense, possesses with the intent to sell or dispense, offers, gives or administers to another person any controlled substance which is a hallucinogenic substance other than marijuana, or a narcotic substance, except as authorized in this chapter, for a first offense, shall be imprisoned not more than fifteen years and may be fined not more than fifty thousand dollars or be both fined and imprisoned; and for a second offense shall be imprisoned not more than thirty years and may be fined not more than one hundred thousand dollars, or be both fined and imprisoned; and for each subsequent offense, shall be imprisoned not more than thirty years and may be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned.]

(b) Any person who manufactures, distributes, sells, prescribes, dispenses, compounds, transports with intent to sell or dispense, possesses with intent to sell or dispense, offers, gives or administers to another person any controlled substance, except a narcotic substance, or a hallucinogenic substance other than marijuana, except as authorized in this chapter, may, for the first offense, be fined not more than twenty-five thousand dollars or be imprisoned not more than seven years or be both fined and imprisoned; and, for each subsequent offense, may be fined not more than one hundred thousand dollars or be imprisoned not more than fifteen years, or be both fined and imprisoned.]

(a) (1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter, any controlled substance that is (A) a narcotic substance, or (B) a hallucinogenic substance.

(2) Any person who violates subdivision (1) of this subsection (A) for a first offense, shall be imprisoned not more than fifteen years and may be fined not more than fifty thousand dollars, or be both fined and imprisoned, (B) for a second offense, shall be imprisoned not more than thirty years and may be fined not more than one hundred thousand dollars, or be both fined and imprisoned, and (C) for any subsequent offense, shall be imprisoned not more than thirty years and may be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned.

(b) (1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter, any controlled substance except (A) a narcotic substance, or (B) a hallucinogenic substance.

(2) Any person who violates subdivision (1) of this subsection (A) for a first offense, may be fined not more than twenty-five thousand dollars or imprisoned not more than seven years, or be both fined and imprisoned, and (B) for any subsequent offense, may be fined not more than one hundred thousand dollars or imprisoned not more than fifteen years, or be both fined and imprisoned.

(c) No person [shall] may knowingly possess drug paraphernalia in a drug factory situation as defined by subdivision (20) of section 21a-240 for the unlawful mixing, compounding or otherwise preparing any controlled substance for purposes of violation of this chapter.

(d) As an alternative to the sentences specified in subsections (a) and (b) of this section, the court may sentence the person to the custody of the Commissioner of Correction for an indeterminate term not to exceed three years or the maximum term specified for the offense, whichever is [the lesser] less, and, at any time within such indeterminate term and without regard to any other provision of law regarding minimum term of confinement, the Commissioner of Correction may release the convicted person so sentenced subject to such conditions as [he] the commissioner may impose including, but not limited to, supervision by suitable authority. At any time during such indeterminate term, the Commissioner of Correction may revoke any such conditional release in [his] the commissioner's discretion for violation of the conditions imposed and return the convicted person to a correctional institution.

Sec. 2. Section 21a-278 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

[(a) Any person who manufactures, distributes, sells, prescribes, dispenses, compounds, transports with the intent to sell or dispense, possesses with the intent to sell or dispense, offers, gives or administers to another person one or more preparations, compounds, mixtures or substances containing an aggregate weight of one ounce or more of heroin or methadone or an aggregate weight of one-half ounce or more of cocaine or one-half ounce or more of cocaine in a free-base form, or a substance containing five milligrams or more of lysergic acid diethylamide, except as authorized in this chapter, and who is not, at the time of such action, a drug-dependent person, shall be imprisoned for a minimum term of not less than five years or more than twenty years; and, a maximum term of life imprisonment. The execution of the mandatory minimum sentence imposed by the provisions of this subsection shall not be suspended, except the court may suspend the execution of such mandatory minimum sentence if at the time of the commission of the offense (1) such person was under the age of eighteen

years, or (2) such person's mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.

(b) Any person who manufactures, distributes, sells, prescribes, dispenses, compounds, transports with the intent to sell or dispense, possesses with the intent to sell or dispense, offers, gives or administers to another person any narcotic substance, hallucinogenic substance other than marijuana, amphetamine-type substance, or one kilogram or more of a cannabis-type substance, except as authorized in this chapter, and who is not, at the time of such action, a drug-dependent person, for a first offense shall be imprisoned not less than five years or more than twenty years; and for each subsequent offense shall be imprisoned not less than ten years or more than twenty-five years. The execution of the mandatory minimum sentence imposed by the provisions of this subsection shall not be suspended, except the court may suspend the execution of such mandatory minimum sentence if at the time of the commission of the offense (1) such person was under the age of eighteen years, or (2) such person's mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.]

(a) (1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter, (A) one or more preparations, compounds, mixtures or substances containing an aggregate weight of (i) one ounce or more of heroin or methadone, or (ii) one-half ounce or more of cocaine or cocaine in a free-base form, or (B) a substance containing five milligrams or more of lysergic acid diethylamide. The provisions of this subdivision shall not apply to a person who is, at the time of the commission of the offense, a drug-dependent person.

(2) Any person who violates subdivision (1) of this subsection shall be imprisoned not less than five years or more than life. The execution of the mandatory minimum sentence imposed by the provisions of this subdivision shall not be suspended, except that the court may suspend the execution of such mandatory minimum sentence if, at the time of the commission of the offense, such person was under the age of eighteen years or such person's mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.

(b) (1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter, (A) a narcotic substance, (B) a hallucinogenic substance, (C) an amphetamine-type substance, or (D) one kilogram or more of a cannabis-type substance. The provisions of this subdivision shall not apply to a person who is, at the time of the commission of the offense, a drug-dependent person.

(2) Any person who violates subdivision (1) of this subsection (A) for a first offense, shall be imprisoned not less than five years or more than twenty years, and (B) for any subsequent offense, shall be imprisoned not less than ten years or more than twenty-five years. The execution of the mandatory minimum sentence imposed by the provisions of this subdivision shall not be suspended, except that the court may suspend the execution of such mandatory minimum sentence if, at the time of the commission of the offense, such person was under the age of eighteen years or such person's mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.

Sec. 3. Section 21a-255 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

[(a) Any person who, either as principal or agent, refuses or fails to make, furnish or keep any record, notification, order form, statement, invoice or information required by sections 21a-243 to 21a-282, inclusive, or regulations adopted pursuant to section 21a-244, for the first offense may be fined not more than five hundred dollars and for each subsequent offense may be fined not more than one thousand dollars or imprisoned not more than thirty days or be both fined and imprisoned.

(b) Any person who fails to keep any record required by said sections 21a-243 to 21a-282, inclusive, or said regulations, with an intent to defeat the purpose of this chapter or any person who violates any other provision of said sections, except as to such violations for which penalties are specifically provided in sections 21a-277 and 21a-279, may, for the first offense, be fined not more than three thousand five hundred dollars or be imprisoned for not more than two years or be both fined and imprisoned; and for the second and each subsequent offense shall be guilty of a class C felony.]

(a) Any person who, either as principal or agent, refuses or fails to make, furnish or keep any record, notification, order form, statement, invoice or information required by sections 21a-243 to 21a-282, inclusive, as amended by this act, or regulations adopted pursuant to section 21a-244, (1) for a first offense, may be fined not more than five hundred dollars, and (2) for any subsequent offense, may be fined not more than one thousand dollars or imprisoned not more than thirty days, or be both fined and imprisoned.

(b) Any person who, with intent to defeat the purpose of this chapter, fails to keep any record required by sections 21a-243 to 21a-282, inclusive, as amended by this act, or regulations adopted pursuant to section 21a-244, (1) for a first offense, may be fined not more than three thousand five hundred dollars or imprisoned not more than two years, or be both fined and imprisoned, and (2) for any subsequent offense, shall be guilty of a class C felony.

(c) Any person who violates any provision of sections 21a-243 to 21a-282, inclusive, as amended by this act, for which no penalty is expressly provided, (1) for a first offense, may be fined not more than three thousand five hundred dollars or imprisoned not more than two years, or be both fined and imprisoned, and (2) for any subsequent offense, shall be guilty of a class C felony.

Sec. 4. Subdivision (23) of section 21a-240 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(23) "Hallucinogenic substances" are psychodysleptic substances, other than cannabis-type substances, which assert a confusional or disorganizing effect upon mental processes or behavior and mimic acute psychotic disturbances. Exemplary of such drugs are mescaline, peyote, psilocyn and d-lysergic acid diethylamide, which are controlled substances under this chapter unless modified.

Statement of Purpose:

To improve the organization and comprehensibility of statutes concerning the illegal sale of controlled substances.

VI. Next steps

Summary

As required by law, the Commission will meet at least once during each calendar quarter in 2017. Information about the meetings, materials from those meetings, and information regarding the work of the Commission, its committees, and working groups can be found on the Commission's web site at www.ct.gov/ctsc.

Committees and Working Groups

The Commission continues to support the ongoing work of its steering and standing committees along with the Special Committee on Sex Offenders and its three subcommittees. The special committee is scheduled to submit an interim report on February 1 and continue its work through 2016 and into 2017. The special committee plans to finalize a study scope by early February.

Ongoing Areas of Study

The Commission must complete its study of pretrial diversionary programs (see study scope, Appendix H). It has requested data on the 10 programs that are the subject of this review and analysis. A complete description of those programs and their effectiveness will support the Commission's eventual findings and recommendations.

The Commission will continue its work evaluating the Certificates of Employability program and plans to

submit an interim report on January 16. The Commission will continue to evaluate the program through 2017 and into 2018.

Similarly, it will continue its work on criminal history record erasure and plans to submit a report by mid-February.

The Commission is also committed to furthering its recent study of bail bonds, as described in its original recommendations.

Proposed Legislation 2017

The Commission proposed and on February 8, 2017, the Judiciary Committee raised the following three bills:

- An Act Concerning Recommendations of the Connecticut Sentencing Commission with Respect to Victim Notification (HB 7262)
- An Act Concerning Technical Reorganization of Statutes Involving the Illegal Sale of Controlled Substances (SB 1032)
- An Act Concerning Recommendations of the Connecticut Sentencing Commission with Respect to Pretrial Release and Detention. (HB 7287)

The Sentencing Commission will follow and support enactment of these proposals.

VII. Appendices

Table of Contents

Appendix A: C.G.S. § 54-300

Appendix B: Public Act 16-178

Appendix C: Letter from Governor Dannel P. Malloy

Appendix D: "Pretrial Release and Detention in Connecticut"

Appendix E: Special Act §15-2

Appendix F: 2016 Interim Report Special Committee on Sex Offenders

Appendix G: Public Act §15-84

Appendix H: Pretrial Diversionary Programs Study Scope

Appendix A

§ 54-300 Sentencing Commission

- (a) There is established, within existing budgetary resources, a Connecticut Sentencing Commission which shall be within the Office of Policy and Management for administrative purposes only.
- (b) The mission of the commission shall be 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) In fulfilling its mission, the commission shall recognize 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.
- (d) The commission shall be composed of the following members:
- (1) Eight persons appointed one each by: (A) The Governor, (B) the Chief Justice of the Supreme Court, (C) the president pro tempore of the Senate, (D) the speaker of the House of Representatives, (E) the majority leader of the Senate, (F) the majority leader of the House of Representatives, (G) the minority leader of the Senate, and (H) the minority leader of the House of Representatives, all of whom shall serve for a term of four years;
 - (2) Two judges appointed by the Chief Justice of the Supreme Court, one of whom shall serve for a term of one year and one of whom shall serve for a term of three years;
 - (3) One representative of the Court Support Services Division of the Judicial Branch appointed by the Chief Justice of the Supreme Court, who shall serve for a term of two years;
 - (4) The Commissioner of Correction, who shall serve for a term coterminous with his or her term of office;
 - (5) The Chief State's Attorney, who shall serve for a term coterminous with his or her term of office;
 - (6) The Chief Public Defender, who shall serve for a term coterminous with his or her term of office;
 - (7) One state's attorney appointed by the Chief State's Attorney, who shall serve for a term of three years;
 - (8) One member of the criminal defense bar appointed by the president of the Connecticut Criminal Defense Lawyers Association, who shall serve for a term of three years;
 - (9) The Victim Advocate, who shall serve for a term coterminous with his or her term of office;
 - (10) The chairperson of the Board of Pardons and Paroles, who shall serve for a term coterminous with his or her term of office;
 - (11) The Commissioner of Emergency Services and Public Protection, who shall serve for a term coterminous with his or her term of office;

(12) A municipal police chief appointed by the president of the Connecticut Police Chiefs Association, who shall serve for a term of two years;

(13) The Commissioner of Mental Health and Addiction Services, who shall serve for a term coterminous with his or her term of office;

(14) The undersecretary of the Criminal Justice Policy and Planning Division within the Office of Policy and Management, who shall serve for a term coterminous with his or her term of office; and

(15) An active or retired judge appointed by the Chief Justice of the Supreme Court, who shall serve as chairperson of the commission and serve for a term of four years.

(e) The commission shall elect a vice-chairperson from among the membership. Appointed members of the commission shall serve for the term specified in subsection (d) of this section and may be reappointed. Any vacancy in the appointed membership of the commission shall be filled by the appointing authority for the unexpired portion of the term.

(f) The commission shall:

(1) Facilitate the development and maintenance of a state-wide sentencing database in collaboration with state and local agencies, using existing state databases or resources where appropriate;

(2) Evaluate existing sentencing statutes, policies and practices including conducting a cost-benefit analysis;

(3) Conduct sentencing trends analyses and studies and prepare offender profiles;

(4) Provide training regarding sentencing and related issues, policies and practices;

(5) Act as a sentencing policy resource for the state;

(6) Preserve judicial discretion and provide for individualized sentencing;

(7) Evaluate the impact of pretrial, sentencing diversion, incarceration and post-release supervision programs;

(8) Perform fiscal impact analyses on selected proposed criminal justice legislation; and

(9) Identify potential areas of sentencing disparity related to racial, ethnic, gender and socioeconomic status.

(g) Upon completing the development of the state-wide sentencing database pursuant to subdivision (1) of subsection (f) of this section, the commission shall review criminal justice legislation as requested and as resources allow.

(h) The commission shall make recommendations concerning criminal justice legislation, including proposed modifications thereto, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary which shall hold a hearing thereon.

(i) The commission shall have access to confidential information received by sentencing courts and the Board of Pardons and Paroles including, but not limited to, arrest data, criminal history records, medical records and other non-conviction information.

(j) The commission shall obtain full and complete information with respect to programs and other activities and operations of the state that relate to the criminal sentencing structure in the state.

(k) The commission may request any office, department, board, commission or other agency of the state or any political subdivision of the state to supply such records, information and assistance as may be necessary or appropriate in order for the commission to carry out its duties. Each officer or employee of such office, department, board, commission or other agency of the state or any political subdivision of the state is authorized and directed to cooperate with the commission and to furnish such records, information and assistance.

(l) The commission may accept, on behalf of the state, any grants of federal or private funds made available for any purposes consistent with the provisions of this section.

(m) Any records or information supplied to the commission that is confidential in accordance with any provision of the general statutes shall remain confidential while in the custody of the commission and shall not be disclosed. Any penalty for the disclosure of such records or information applicable to the officials, employees and authorized representatives of the office, department, board, commission or other agency of the state or any political subdivision of the state that supplied such records or information shall apply in the same manner and to the same extent to the members, staff and authorized representatives of the commission.

(n) The commission shall be deemed to be a criminal justice agency as defined in subsection (b) of section 54-142g.

(o) The commission shall meet at least once during each calendar quarter and at such other times as the chairperson deems necessary.

(p) Not later than January 15, 2012, and annually thereafter, the commission shall submit a report, in accordance with the provisions of section 11-4a, to the Governor, the General Assembly and the Chief Justice of the Supreme Court.

Appendix B

Substitute Senate Bill No. 455

Public Act No. 16-178 ***AN ACT CONCERNING WEAPONS IN VEHICLES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 29-38 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(b) The provisions of this section shall not apply to: (1) Any officer charged with the preservation of the public peace while engaged in the pursuit of such officer's official duties; (2) any security guard having a baton or nightstick in a vehicle while engaged in the pursuit of such guard's official duties; (3) any person enrolled in and currently attending a martial arts school, with official verification of such enrollment and attendance, or any certified martial arts instructor, having any such martial arts weapon in a vehicle while traveling to or from such school or to or from an authorized event or competition; (4) any person having a BB. gun in a vehicle provided such weapon is unloaded and stored in the trunk of such vehicle or in a locked container other than the glove compartment or console; [and] (5) any person having a knife, the edged portion of the blade of which is four inches or more in length, in a vehicle if such person is (A) any member of the armed forces of the United States, as defined in section 27-103, or any reserve component thereof, or of the armed forces of the state, as defined in section 27-2, when on duty or going to or from duty, (B) any member of any military organization when on parade or when going to or from any place of assembly, (C) any person while transporting such knife as merchandise or for display at an authorized gun or knife show, (D) any person while lawfully removing such person's household goods or effects from one place to another, or from one residence to another, (E) any person while actually and peaceably engaged in carrying any such knife from such person's place of abode or business to a place or person where or by whom such knife is to be repaired, or while actually and peaceably returning to such person's place of abode or business with such knife after the same has been repaired, (F) any person holding a valid hunting, fishing or trapping license issued pursuant to chapter 490 or any saltwater fisherman while having such knife in a vehicle for lawful hunting, fishing or trapping activities, or (G) any person participating in an authorized historic reenactment; or (6) any person having a dirk knife or police baton in a vehicle while lawfully moving such person's household goods or effects from one place to another, or from one residence to another.

Approved June 6, 2016

Appendix C



Dannel P. Malloy
GOVERNOR
STATE OF CONNECTICUT

November 5, 2015

Justice David Borden, Chair
Connecticut Sentencing Commission
Office of Policy and Management
450 Capitol Avenue
Hartford, CT 06106

Andrew J. Clark, Acting Executive Director
Connecticut Sentencing Commission
Institute for Municipal & Regional Policy (IMRP)
Central Connecticut State University (CCSU)
Downtown Campus, Room 212
New Britain, CT 06050

RE: Study of Bail Reform and Diversionary Programs

Dear Justice Borden and Mr. Clark:

I am writing today to ask the Sentencing Commission to examine two important issues relating to my Second Chance Society initiatives:

- 1) Connecticut's current bail bond system and the possibility for its reform, and
- 2) Connecticut's numerous diversionary programs, their efficacy and cost-effectiveness.

In Connecticut today, there are approximately six-hundred people in jail whose bond is less than \$20,000, and another six-hundred people whose bond is less than \$50,000. People who are not able to post the amount of bail required to get out of jail on such low bond – typically just a few hundred dollars – are people who most likely have no job and no support network. A large proportion of these people are non-violent, low-level offenders who would be able to get out of jail if they had a credit card, or a friend or family member who could loan them the small amount of money required to do so. Many are homeless, drug addicted, mentally ill and unemployed. They are also often veterans.

210 CAPITOL AVENUE, HARTFORD, CONNECTICUT 06106
TEL (860)566-4840 • FAX (860)524-7396 • www.governor.ct.gov
governor.malloy@ct.gov

These people are not incarcerated because they are dangerous or a flight risk, but merely because they are poor; there are others just like them who have committed similar crimes under similar circumstances who are walking free because of the simple fact that they have the financial means to do so.

Many jurisdictions have begun to reconsider whether existing bail systems are fair and just, and it is time that we do the same in Connecticut. In 2014, for example, New Jersey changed its laws to permit courts, beginning January 1, 2017, to deny pretrial release of certain persons in criminal cases, and to permit monetary bail only when no other conditions of release will reasonably assure the eligible defendant's appearance in court.

I would like to request that the Sentencing Commission examine the bail systems in other jurisdictions, such as New Jersey, Massachusetts, Kentucky, and Oregon, as well as any recent reforms that have been made to those systems. Please include in your examination an analysis of potential ways Connecticut can focus pretrial incarceration efforts on individuals who are dangerous and/or a flight risk, as well as ways to reduce "bail inflation" in Connecticut, and report back to me with your recommendations.

The second issue I would like the Sentencing Commission to consider is the state of Connecticut's existing jail diversionary programs. Connecticut has a wide array of diversionary programs that provide services to individuals to keep them out of jail and to get them back on their feet. Individuals may be eligible to participate in a variety of diversionary programs related to substance use disorder, alcohol rehabilitation, and a history of sexual or domestic violence, among others. These programs are currently operated by both state-funded entities and non-profit organizations through contracts with the state.

I would like to know more about how these programs are meeting the needs of the state and its citizens. In particular, I have heard concerns from prosecutors, judges, defense attorneys and victims that the variety of diversionary programs available in Connecticut is confusing. I have heard that use of these programs has become automatic, resulting in offenders being shifted from one program to another without a case-by-case analysis of their situation, and may postpone the time by which an individual defendant's needs are addressed in a comprehensive way. I am concerned that the existing diversity of programs results in the opposite of the desired effect, and that the overly complicated administration of these programs may be wasteful of judicial resources.

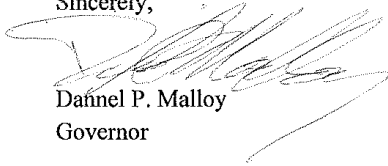
To address these concerns, I would like to solicit your expertise in helping to assess the scope of the diversionary programs that are currently in existence, and to determine how effective those programs are. Please review existing diversionary programs and analyze their cost and funding mechanisms, as well as how effective and efficient they are at both treating the populations they

seek to help and at preventing recidivism. In addition, please study best practices in diversionary programs generally, and examine whether having one generic diversionary program, with one application process, and one length of time, would benefit the participants of the program, as well as reduce the fiscal and administrative burden on the state.

Please let my office know by January 15, 2016 how soon you will be able to provide recommendations on these topics.

Thank you for your help on these important initiatives. My hope is that through our joint efforts, we can find a way to give more incarcerated individuals a "second chance" to succeed.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Malloy', with a long horizontal flourish extending to the right.

Dannel P. Malloy
Governor

Appendix D:

THE CONNECTICUT SENTENCING COMMISSION

Report to the Governor and the General Assembly on Pretrial Release and Detention in Connecticut

EXECUTIVE SUMMARY

Objective

The Sentencing Commission has been tasked with investigating Connecticut's current system of pretrial detention and release, with a view to making recommendations as to how to justly and fairly maximize (1) public safety; (2) appearance in court; and (3) the release of bailable defendants.

This report is a preliminary one. The goal to identify the most fair and equitable pretrial release and detention practices will require more intensive data analysis and policy deliberation. Based on the analysis and deliberations of the Commission to date, the following observations can be made.

Many elements of Connecticut's pretrial justice system stand out as exemplary. Compared to many other jurisdictions in the United States, our state's rate of pretrial detention is low. The Judicial Branch Court Support Services Division (JB-CSSD) is the only statewide pretrial agency in the country that has been accredited by the National Association of Pretrial Agencies (NAPSA). Unlike many other jurisdictions in the United States, Connecticut utilizes a risk assessment instrument that has been validated to establish a correlation with defendants' court appearance and re-arrest outcomes.

However, the Commission recognizes that there are ways in which to improve our system. It appears that many defendants remain detained before trial because they lack sufficient resources to post financial bond, while other similarly-situated defendants are released because they are financially able to post bond. At the same time, because the state constitution guarantees to all non-capital defendants the right "to be released on bail upon sufficient

security,” some defendants who pose a high risk of public safety are released because they are able to post bond. Another concern with the state’s current approach to pretrial justice is the lack of common standards to guide police departments’ decisions with respect to the conditions of pretrial release.

The main focus of this initial report is on defendants who face minor charges and have been assessed as posing a low risk of re-arrest and failure to appear. The recommendations contained in this report are designed to empower decision makers to release bailable defendants. The recommendations aim to (1) reduce the duration of pretrial detention, (2) reduce disparities in pretrial release and detention arising from ability to post bond, and (3) realize the benefits of reduced recidivism and enhanced public safety that come from evidence-based practices of pretrial release and detention.

RECOMMENDATIONS

Recommendation 1.

Legislation should be enacted requiring the court to make a finding on the record before imposing secured financial conditions in misdemeanor cases.

The Commission recommends that the General Assembly enact legislation requiring a sitting superior court judge to make a finding before ordering secured financial conditions of release in misdemeanor cases.

The Commission recommends that the following proposal for consideration:

If the crime charged is a misdemeanor, then no monetary condition may be imposed unless the court finds that the monetary condition is necessary because, absent the condition, there is a serious risk that the defendant will:

- (1) “fail to appear as required in court;”
- (2) “obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror,” or
- (3) “engage in conduct that threatens the safety of another person.”

If the crime charged is a non-family violence misdemeanor, then no monetary condition may be imposed unless the court finds that the monetary condition is necessary because, absent the condition, there is a serious risk that the defendant will:

- fail to appear as required in court.

This recommendation would prevent the imposition of monetary conditions at the first appearance in misdemeanor cases unless there are specific findings that the condition is justified. The intent of the recommendation is to create a higher burden than exists under current law for the imposition of monetary conditions in misdemeanor cases.

While the Commission adopted this report unanimously, certain commissioners (Judge White, Attorney Farr, and Attorney Pierre) raised the possibility of including in Recommendation 1 a proposal that “public safety” be considered by the court in setting bond for all misdemeanors, not just those misdemeanors involving family violence offenses. The Commission agreed to submit with this report for consideration by the General Assembly the issue as raised by Judge White, Attorney Farr, and Attorney Pierre.

Recommendation 2.

The bail review period should be shortened and modified for certain individuals who remain detained after the imposition of secured financial conditions.

The Commission recommends adopting a shortened bail review period for certain individuals held on secured financial conditions along with a requirement that the defendant be released absent a finding justifying the continued detention.

The Commission recommends that, if a defendant is charged with a misdemeanor offense, then the defendant must return to court if still detained 14 days after the first appearance.

Upon the defendant’s return to court, the court must remove the monetary condition on release unless the court finds that the monetary condition is necessary because, absent the condition, there is a serious risk that the defendant will:

- (1) “fail to appear as required in court,”
- (2) “obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror” or
- (3) “engage in conduct that threatens the safety of another person.”

This recommendation provides for review after two weeks of monetary conditions imposed in misdemeanor cases that have caused a defendant to remain detained. In these circumstances, to support the continued imposition of the monetary condition, the court must make specific findings that justify the condition. This recommendation is designed to work in conjunction with Recommendation 2 to reduce the unnecessary pretrial detention of low-risk, indigent defendants.

Recommendation 3.

Legislation should be enacted permitting a defendant to deposit 10% of the bond amount with the court whenever a surety bond of \$10,000 or less is imposed.

The proposal should provide that:

- A deposit of 10% of the bond amount in cash will automatically satisfy bonds of \$10,000 or under. That is, a defendant with an imposed bond of \$10,000 or less will be able to post that bond with a bail bondsman or by posting 10% with the court.
- An arrestee may utilize this 10% option while detained at the police station after arrest and before court appearance.

Currently, the Practice Book permits judges to enter an order allowing a bond to be satisfied by the deposit of 10% of the bond amount in cash with the clerk. If the bond is not forfeited, the money is returned at the end of the case. See Connecticut Practice Book 38-8 (“When 10 percent cash bail is granted, upon the depositing in cash, by the defendant or any person in his or her behalf other than a paid surety, of 10 percent of the surety bond set, the defendant shall thereupon be admitted to bail in the same manner as a defendant who has executed a bond for the full amount. If such bond is forfeited, the defendant shall be liable for the full amount of the bond. Upon discharge of the bond, the 10 percent cash deposit made with the clerk shall be returned to the person depositing the same, less any fee that may be required by statute.”).

Currently, if a judge does not enter an order permitting the 10% cash option, the option is not available. The 10% cash option is not available at all to arrestees at police stations prior to the first court appearance.

Recommendation 4.

Judicial Branch bail staff should have adequate opportunity to review and make release decisions following every warrantless custodial arrest.

The Commission recommends that the legislature increase access to bail commissioners during booking to allow for pretrial screening and risk-based release decision making shortly after each warrantless arrest. The Commission recommends that the relevant provision of the Connecticut General Statutes be amended as follows:

- The police may release someone without a bond or may release on a non-surety bond. However, police may not set surety bond amounts.
- The police must contact JB-CSSD promptly after an arrest and processing. A bail commissioner must interview an arrestee promptly (which can be done either in person or by video-conference).
- Bail commissioners may release an arrestee with no bond or set a bond amount.
- If the police disagree with the decision of the bail commissioner, the state’s attorney can be contacted and can override the bail commissioner’s decision.

Currently, the police may release someone without a bond or may set a bond amount. Bail staff from the Judicial Branch Court Support Services Division may access arrestees while they are detained at police stations (prior to their first court appearance) and conduct interviews and risk assessments. Bail commissioners may change the bond amount set by the police (or may eliminate the bond). If the police disagree with the decision of the bail commissioner, the state's attorney can be contacted and can override the bail commissioner's decision. Many arrestees are bonded out from police stations prior to interviews with bail commissioners.

The Commission is mindful of the limited resources of the police departments, the Judicial Branch, and municipalities. This proposal cannot be an unfunded mandate and can only succeed if funding is provided for (1) the necessary videoconferencing equipment in every police station for bail staff to promptly interview arrestees or (2) additional JB-CSSD bail staff to travel to police departments around the state.

Recommendation 5.

The Commission should continue to evaluate the effectiveness and fairness of Connecticut's pretrial justice system.

The Commission recommends a continuing evaluation of Connecticut's pretrial justice system. Although the current evaluation and this report are comprehensive, the research conducted by the Commission revealed several significant areas that can benefit from further analysis. The Commission recommends that a mandate be enacted directing the Commission to continue its evaluation and submit annual reports on the state of pretrial justice system in Connecticut to the General Assembly and the governor by January 2018, January 2019 and January 2020.

Recommendation 6.

Lawyers, judges, and other stakeholders should receive regular training on current best practices in the area of pretrial release and detention decision making.

The Commission recommends that to police officers, state's attorneys, public defenders, judges and other court staff who are part of the pretrial decision-making process should receive regular training on pretrial release and detention decision making. More specifically, the Commission recommends that:

- An education plan and training be developed for police departments, public defenders, prosecutors and judges. The educational plan should include (but not be limited to):
 - The purpose and history of bail
 - Constitutional principles
 - Risk principles and the methodology behind the risk assessment tool.
- The Commission host (within available resources) an annual one-day summit on the latest developments in pretrial justice, research and best practices and invite participation

from all stakeholders (law enforcement, prosecutors, state's attorneys, public defenders, members of the defense bar, legislators, and other interested parties).

Recommendation 7.

The Division of Criminal Justice should have adequate support and opportunity to establish screening and intake units. The Division of Public Defender Services should have adequate attorney, investigator, and a social work staff and resources to investigate defendant's individual circumstances for purposes of making comprehensive bail and diversion arguments at arraignment. In addition, the Judicial Branch should have the personnel and resources to accommodate implementation of this recommendation.

These units will be able to (1) make decisions about whether incoming cases are appropriately charged and identify those cases which should be *nolled*, dismissed or diverted at or prior to the first court appearance and (2) make informed and considered bail recommendations.

The decision on whether to prosecute can be informed by input from defense attorneys, bail staff, and others including police and victims. Defense attorneys need time to interview defendants and discuss alternatives with prosecutors who can make more informed recommendations to the court. The Judicial Branch (which includes the Division of Public Defender Services) would need resources to support the implementation of this recommendation, which presumably could result in fewer cases going to court and the savings associated with that outcome.

Recommendation 8.

The Commission should continue to investigate the feasibility of a carefully limited preventive detention system.

The Commission recommends that it continue to evaluate the feasibility of creating a carefully limited preventive detention model to keep the most dangerous defendants in jail. In order to ensure that the most dangerous defendants stay in jail during their pretrial process, it may eventually require a constitutional amendment to substitute preventive detention for the current practice of imposing high-dollar bonds on defendants. A high-dollar bond may keep some individuals in jail. However, some individuals who have access to funds for posting a bond can be released into the community. In addition, the Connecticut Supreme Court has continuously recognized that "the excessive bail clause of article first, § 8, prevents a court from fixing bail in an unreasonably high amount so as to accomplish indirectly what it could not accomplish directly, that is, denying the right to bail." Thus, keeping a defendant in jail on purpose using money bail is unconstitutional.

Preventive detention, if used properly as part of a compressive set of bail laws that contain a statutory presumption and culture of release, can be reserved for a small category of defendants who present a serious risk of a dangerous re-offense. This intellectually honest practice will ensure that, after an adversarial hearing, the defendants that the state deems too dangerous to

reasonably assure public safety and their court appearance will not be released into the community.

The Commission recognizes that preventive detention may lead to over- incarceration if not planned carefully and thoroughly. A high legal standard should be put in place to assure that only the most dangerous and risky defendants are preventively detained.

The Commission also recognizes that preventive detention hearings require funding and resources that are in short supply given the state's current fiscal difficulties. The Commission will continue to evaluate preventive detention. If the state moves forward to provide funding for this model, the Commission respectfully requests that it be included in the deliberations for developing an implementation plan for preventive detention.

Appendix E:

Special Act No. 15-2

AN ACT CONCERNING A STUDY OF THE SEXUAL OFFENDER REGISTRATION SYSTEM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective October 1, 2015*) (a) The Connecticut Sentencing Commission established pursuant to section 54-300 of the general statutes shall study: (1) The sentencing of sexual offenders; (2) the risk assessment and management of sexual offenders; (3) the registration requirements and registry established under chapter 969 of the general statutes; (4) the information available to the public and law enforcement regarding sexual offenders; (5) the effectiveness of a tiered classification system based on the risk of reoffense; (6) methods to reduce and eliminate recidivism by individuals convicted of a sexual offense; (7) housing opportunities and obstacles for sexual offender registrants; (8) options for post-sentence appeals concerning the registry status of a sexual offender registrant; (9) sexual offender management; and (10) victim and survivor needs and services and community education.

(b) The commission shall submit, in accordance with section 11-4a of the general statutes, an interim report not later than February 1, 2016, and a final report not later than December 15, 2017, on such study to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary. Each report shall contain recommendations for legislation, if any.

Approved May 26, 2015

APPENDIX F:

CONNECTICUT SENTENCING COMMISSION

2016 Interim Report
Study of the Sexual Offender Registration System



Connecticut Sentencing Commission
185 Main Street, 212
New Britain, CT 06051
860-832-1852

2016 INTERIM REPORT

Report to the Judiciary Committee of
the Connecticut General Assembly
pursuant to Special Act 15-2 §1 (b)

Alex Tsarkov
Executive Director

Leland J. Moore
Research & Policy Associate

185 Main Street, Room 212
New Britain, Connecticut 06051
Tel: 860-832-1852
Fax: 860-832-0071
<http://www.ct.gov/ctsc>

SPECIAL COMMITTEE MEMBERS

Brian Austin

Executive Assistant State's Attorney
Office of the Chief State's Attorney

Vivien K. Blackford

Retired

Linda J. Cimino

Director of Victim Services
Judicial Branch Office of Victim
Services

Laura Cordes

Executive Director
Connecticut Sexual Assault Crisis
Services

David D'Amora

Director, National Initiatives
Council of State Governments, Justice
Center

Robert Devlin

Chief Administrative Judge for
Criminal Matters
Judicial Branch

Robert Farr

Co-Chair
(Retired) Former Chairman
Board of Pardons and Paroles

Stephen Grant

Co-Chair
Executive Director
Judicial Branch Court Support Services
Division

Karen Martucci

Director
External Affairs Division. Department
of Correction

David McGuire

Legislative & Policy Director
American Civil Liberties Union of
Connecticut

Mark Palmer

Chief of Police
Coventry Police Department

Natasha Pierre

State Victim Advocate
Office of the Victim Advocate

David Rentler

Board Psychologist
Board of Pardons and Paroles

Lisa Teppar Bates

Executive Director
Connecticut Coalition to End
Homelessness

Thomas Ullmann

Public Defender
Judicial District of New Haven

Antoinette Webster

Attorney
Department of Emergency Services
and Public Protection

EXECUTIVE SUMMARY

I. Introduction

On May 26, 2015, the Governor signed Special Act 15-2, An Act Concerning A Study of the Sexual Offender Registration System. The act requires the Commission to take a comprehensive look at the registration, management, and sentencing of sexual offenders in Connecticut. The Commission is required to submit reports to the General Assembly on February 1, 2016 and December 15, 2017.

AN ACT CONCERNING A STUDY OF THE SEXUAL OFFENDER REGISTRATION SYSTEM.

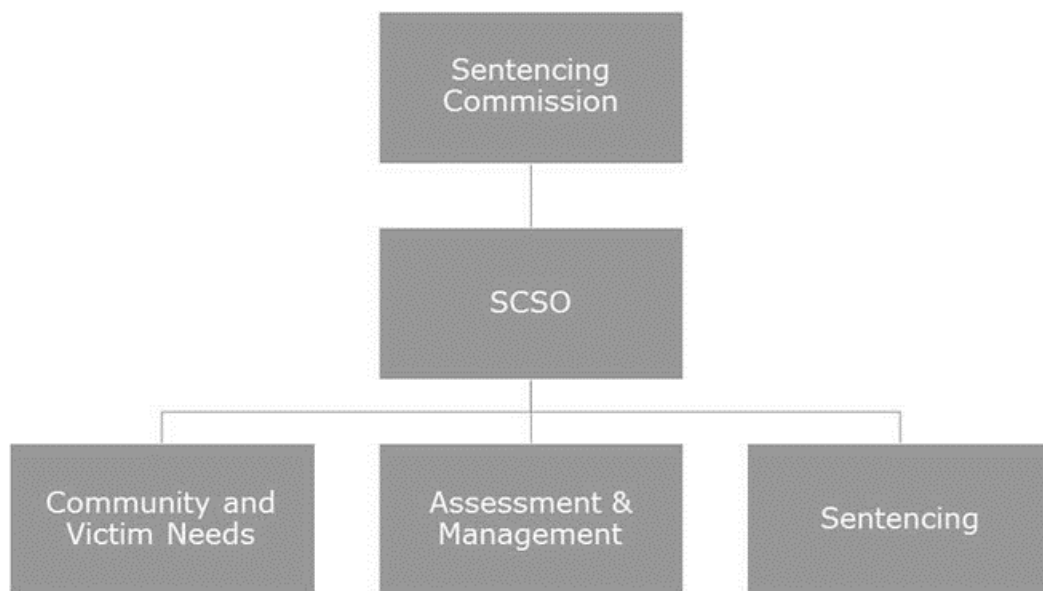
Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective October 1, 2015*) (a) The Connecticut Sentencing Commission established pursuant to section 54-300 of the general statutes shall study: (1) The sentencing of sexual offenders; (2) the risk assessment and management of sexual offenders; (3) the registration requirements and registry established under chapter 969 of the general statutes; (4) the information available to the public and law enforcement regarding sexual offenders; (5) the effectiveness of a tiered classification system based on the risk of reoffense; (6) methods to reduce and eliminate recidivism by individuals convicted of a sexual offense; (7) housing opportunities and obstacles for sexual offender registrants; (8) options for post-sentence appeals concerning the registry status of a sexual offender registrant; (9) sexual offender management; and (10) victim and survivor needs and services and community education.

(b) The commission shall submit, in accordance with section 11-4a of the general statutes, an interim report not later than February 1, 2016, and a final report not later than December 15, 2017, on such study to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary. Each report shall contain recommendations for legislation, if any.

II. Structure and Operation of the Special Committee

The Special Committee on Sex Offenders (The Special Committee) was formed by the Connecticut Sentencing Commission in June 2015 to assist with the study, develop recommendations, and report to the Commission with its findings. The Special Committee is comprised of 16 individuals with a broad base of personal and professional experience with sex offenders in Connecticut, and is chaired by the Executive Director of the Judicial Branch's Court Support Services Division and the former Chair of the Board of Pardons and Paroles. To focus its work, the Special Committee established three subcommittees: Sentencing, Assessment and Management, and Community and Victim Needs.



The Special Committee first met on August 5, 2015, and has convened an additional three times in 2015. Special Committee meetings were devoted to learning more about relevant issues, discussing outstanding matters and opinions, and providing additional guidance and direction to research staff and subcommittees.

III. Educational Presentations

The Special Committee hosted a series of local and national presenters to learn more about the systems of sentencing, assessment, management, and treatment of sex offenders, as well as research and effective practices in the field. These presentations included:

- Ed Palmieri, Deputy Director for Adult Probation and Bail Services, on Connecticut Sexual Offender Management and Assessment.
- David D’Amora, of the Council of State Governments Justice Center, on sex offender registration in the United States.
- State Police Sgt. Matthew Garcia on the state police’s administration of Connecticut’s sex offender registry and the enforcement of the State’s registration requirements.
- Frank Mirto, Parole Manager, on the Department of Correction Special Management Unit’s supervision, assessment, and management of sex offenders.
- Ivan Kuzyk, Director of the State Statistical Analysis Center, on recidivism among sex offenders in Connecticut.
- David D’Amora, Director of National Initiatives at the Council of State Governments’ Justice Center, and Randall Wallace, Director of Clinical and Forensic Services at the Justice Resource Institute, on sex offender risk assessment tools.
- Mark Bliven, Director of the Minnesota Department of Correction’s Risk Assessment and Community Notification Unit, on Minnesota’s tiered approach to sex offender supervision, assessment, and community notification.
- David Zemke, Program Director of the Center for the Treatment of Problem Sexual Behavior (CTPSB), on sex offender treatment services.

IV. Public Engagement

The Special Committee initiated a public engagement process to receive input and for consideration as it developed its interim report. The process involves a segment for public comment at each of the Special Committee and subcommittee meetings, live broadcasting of Special Committee meetings when feasible, and several dedicated pages on the Sentencing Commission website with meeting information and materials. In

addition, the Special Committee plans to host a public hearing and several roundtables as the study progresses and recommendations are formulated.

V. Subcommittees

In developing its interim report, the Commission and its Special Committee consulted a number of national and local experts, began its review of Federal and State policies, and began to develop a study scope. The following section provides a brief overview of the subcommittee focus areas and composition.

a. Community and Victim Needs

The subcommittee on community and victim needs is comprised of 15 individuals and chaired by the State Police officer responsible for the Connecticut State Police Sex Offender Registry Unit and the Executive Director of the Connecticut Alliance to End Sexual Violence. The subcommittee is tasked with studying: victim and survivor needs and services and community education; the registration requirements and the registry established under chapter 969 of the general statutes; the information available to the public and law enforcement regarding sexual offenders; and the community impact of existing sex offender residency restrictions and housing opportunities.

b. Assessment and Management

The subcommittee on assessment and management is comprised of 14 individuals and chaired by the board psychologist for the Board of Pardons and Paroles and the Director of Adult Probation and Court Services. The subcommittee is tasked with the study and review of: the risk assessment and management of sexual offenders, methods to reduce and eliminate recidivism by individuals convicted of a sexual offense, sexual offender management, the housing opportunities and obstacles for sex offender registrants, and the effectiveness of a tiered classification system based on the risk of re-offense.

c. Sentencing

The subcommittee on sex offender sentencing is comprised of 12 individuals and chaired by the Public Defender for the New Haven Judicial District and the

Executive Assistant State's Attorney for the Office of the Chief State's Attorney.

The subcommittee is charged with studying the sentencing of sex offenders and the options for post-sentence appeals concerning the registry status of a sexual offender registrant.

PROPOSED STUDY SCOPE

Introduction

Over the past two decades, crimes involving sexual violence and/or the abduction of children have captured massive media attention and fueled widespread fears of a high risk of assault by repeat sex offenders, especially against children. In an effort to decrease the incidence of sexual assault and/or the abduction of children, legislators have passed regulatory laws aimed at reducing recidivism among convicted sexual offenders through sex offender registration, community notification, and residency restrictions (SOCRN).

Federal law and the laws in all 50 states require adults and some juveniles convicted of specific crimes that involve sexual conduct to register with law enforcement, regardless of whether the victims were adults or children. Commonly referred to as "Megan's Laws," these statutes usually establish public access to sex offender identifying information, primarily by mandating the creation of online registries that provide a former offender's criminal history, current photograph, current address, and other information such as place of employment. A number of states and municipalities also impose sentences that include lengthy periods of probation and/or parole supervision and prohibit registered sex offenders from living within a designated distance, typically 500 to 2,500 feet, of areas where children gather such as schools, playgrounds, and daycare centers.

Sex Offender Laws

Federal legislation to track sex offenders through registration in state databases began in 1994 as part of the Violent Crime Control and Law Enforcement Act. Expansion of the requirements and new mandates were adopted almost annually for the next 20 years. As a result of SOCRN laws, sex offenders living in the United States are often bound by multiple laws, including registration, community notification, monitoring via a global positioning system (GPS,) civil commitment, and residency, loitering, and internet restrictions.

The Connecticut legislature created the state sex offender registry in 1998. The Department of Emergency Services and Public Protection (then the Department of Public Safety) maintains a central repository of information on certain sex offenders and makes that information available to the public at state and local law enforcement agencies and via the internet. Convicted sex offenders required to register must provide their name, home address, criminal history record, identifying information including a photograph, and other information. Connecticut has also expanded and adopted other restrictions and requirements over the past 20 years.

Management and Supervision in Connecticut

In 2007, Connecticut adopted a statewide collaborative model for the supervision and treatment of sex offenders in the community who are on probation or parole. The approach links parole officers, and probation officers, sexual assault victim advocates and a non-profit provider of sex offender treatment and programming who together design oversight and supervision plans for every offender.

Connecticut's Sex Offender Registry

In Connecticut, any person convicted or found not guilty by reason of mental disease or defect of a sexually violent offense, a criminal offense against a minor, a nonviolent sexual offense, a felony committed for a sexual purpose, or a similar offense for which registration is required in another jurisdiction is required to register. Sexually violent offense is defined in state statute and includes the use of force for sexual intercourse or contact, engaging in sexual intercourse with special victims who generally are unable to consent, or sexual intercourse or contact committed by a person in an authoritative position (e.g., secure custody staff, psychotherapist.) The definition of nonviolent sexual offense includes violation of sexual assault in the fourth degree or voyeurism with intent to satisfy or arouse a sexual desire.

Persons convicted of committing a crime against a victim who is a minor, a nonviolent sexual offense, or a felony for sexual purposes must maintain registration for 10 years. However, if the offender has one or more prior convictions for similar crimes or was convicted of engaging in sexual intercourse with a minor under 13 and the offender was

more than two years older than the victim, then the offender must register for life. Persons convicted of sexually violent crimes must also maintain registration for life. Failing to register is a Class D felony.

Summary of Existing Research on Sex Offender Laws

Critics of SORCN laws claim that research on the multiple collateral consequences create an environment that inhibits successful community reintegration and may contribute to an increased risk for recidivism of any crime, not just sex crimes. They claim there is some evidence on studies of the effectiveness of SORCN laws that suggest that these laws may not prevent recidivism or sexual violence and, in fact, may result in more harm than good.

Proponents of sex offender registration and community notification claim these laws protect victims, and in particular children, in three ways. First, in the event a sex crime occurs in the neighborhood in which a registered sex offender lives, police have an immediate list of likely suspects. Second, victims have information that will enable them to heighten their vigilance and parents can warn their children to stay away from particular people. Finally, residency restrictions limit sex offenders' access to victim and children and, as a result, their temptation or ability to commit new crimes. Proponents often cite that sex offenders are always predatory, violent and cannot be rehabilitated and SORCN laws are predicated on the assumption that convicted sex offenders will continue to commit such crimes if given the opportunity.

Advocates for reforming SORCN laws argue the system is inherently unfair as it targets a specific group of people who have already served their sentences and imposes a “one size fits all” approach to the management of sex offenders. Those who advocate for changes in SORCN laws generally do not reject such statutory schemes entirely, rather, they point out that the existing laws target sex offenders without providing sufficient protection for victims and children. Advocates argue that SORCN laws are often based on preventing a horrific crime like the abduction, rape, and murder of a child by a stranger who was a previously convicted sex offender, but research shows that is a rare

event. They believe the laws offer negligible protection for children from the serious and more frequent risk of sexual abuse from family members or acquaintances.

Advocates believe online sex offender registries brand those listed on them with a very public "scarlet letter" that signifies not just that they committed a sex offense in the past, but also that they remain dangerous. With only a few exceptions, states do not impose any "need to know" limitations on who has access to the registrant's information.

Finally, advocates cite the unintended consequences of SORCN laws that seriously limit housing and employment opportunities for registrants, which have a detrimental impact to community re-entry and rehabilitation.

Focus of Study

This study will focus on three main categories of research that incorporate the eight analysis areas set forth in Special Act 15-2. They are:

1. State sentencing laws for sex offenses, sentencing trends and patterns;
2. Management of convicted sex offenders and the sex offender registry; and
3. Collateral consequences of sex offender policies and management practices on victims and the offender.

Areas of Analysis

1. State sentencing laws for sex offenses, sentencing trends and patterns:
 - Overview of federal SOCRN laws including a historical perspective and changes to and repealing of certain aspects of SOCRN laws in other states.
 - Overview of Connecticut SOCRN laws, case law and significant changes to the laws including any difference in charging, sentencing and managing adult and juveniles sex offenders.
 - Review of available options for post-sentence appeals concerning sex offender registry status and the outcomes of such reforms.
2. Management of Convicted Sex Offenders and the sex offender registry:

- Risk assessment and classification of convicted sex offenders including pre-sentence investigation reports by the Judicial Branch Court Support Services Division (CSSD), the Department of Correction (DOC), the Board of Pardons and Paroles (BOPP), and the Department of Children and Families (DCF). Identification of low risk versus high risk offender and management responses to each.
 - Management and community supervision policies, protocols and practices for accused and convicted sex offenders by CSSD, DOC, BOPP, and DCF. A review of technical probation and parole violations will be included.
 - The sex offender programs and services offered in correctional facilities and the community.
 - The administration of the sex offender registry including, but not limited to:
 - the responsibilities of the Department of Emergency Services and Public Safety;
 - the sex offender registry's resources and funding;
 - the supervision of registrants no longer under criminal justice system jurisdiction (discharged from sentence) versus offenders under sentence;
 - a breakdown of 10-year and life registrants and low versus high risk registrants;
 - the number of registrants and a projection of the increase or decrease in registrants over the next 10 years;
 - registration violations and responses/sanctions; and
 - the process for removal from the registry.
3. The collateral consequences of existing sex offender policies and management practices on victims and offenders.
- Identify the obstacles and consequences that result from sex offender conviction and/or registration on housing, employment, educational and training opportunities, and community reintegration.
 - Identify victim and survivor needs.
 - Examine community education surrounding issues pertaining to victims of sex crimes and sex offender management and rehabilitation.

4. To provide the most comprehensive examination of the impact of Connecticut SORCN laws and the effectiveness of the management and rehabilitation of convicted sex offenders, it is necessary to use all available data including, but not limited to: arrest, conviction and sentencing; intake, assessment and classification; supervision and compliance with the registry; and program participation and completion. The data analysis will include, but not be limited to:

- demographics and other descriptors of the sex offender population;
- the differences or similarities in trends and patterns of 10-year versus lifetime registrants;
- the differences or similarities in convicted sex offenders required to register versus not required to register;
- the differences or similarities between convicted sex offenders under sentence and/or supervision versus discharged from sentence;
- registry compliance and violations;
- the differences in rates and patterns of arrest, conviction and sentencing;
- level of risk as predictors of future criminal behavior; and
- descriptive data on victims of sex crimes

Recidivism is a key measure of the effectiveness of the criminal justice system, sentencing and supervision and rehabilitative and treatment programs and services. This study will use recidivism measures such as the type of new charges and sentences, the length of time an offender remained in the community crime-free (threshold period) and the severity of any new crimes, to evaluate the sex offender population and to identify any predictors of future relapse and/or criminal behavior. However, tracking recidivism will not be a key focus of the staff because the Office of Policy and Management Criminal Justice Policy and Planning Division conducted a recent study; *Recidivism Among Sex Offenders in Connecticut* (February 15, 2012). These data and results will be the cornerstone of the data analysis in this study.

CONCLUSION

The Sentencing Commission is pleased to submit this interim report and fulfill the first part of its charge. Having considered a broad range of stakeholder opinions, this report reflects the focus areas and concerns of a variety of interested parties. The Commission anticipates that this interim report will continue to be refined as the study develops and the Special Committee receives further thoughtful input from stakeholders. With the continued work of its subcommittees and research staff, the Sentencing Commission will be able to provide the General Assembly with the best possible final set of recommendations.

Appendix G:

Relevant Section 10 of Public Act No. 15-84

AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 10. (*Effective October 1, 2015*) The Connecticut Sentencing Commission established pursuant to section 54-300 of the general statutes shall study how victims may be notified of the parole eligibility laws and any other release mechanisms governing cases where a person is convicted of one or more crimes and receives a definite sentence or total effective sentence of more than two years for such crime or crimes. The commission shall report such study, including recommendations for legislation, if any, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary not later than February 1, 2016.

Approved June 23, 2015

Appendix H:
Connecticut Sentencing Commission
Scope of Study
Connecticut Pretrial Diversionary Programs

Introduction

This research will examine the overall effect of pretrial diversion programs on defendants and the criminal justice system and the profile of participating defendants. The primary focus will be on determining if there are any differences in the intended public policy objectives versus the actual use and outcomes of the programs. The Connecticut Sentencing Commission will review pretrial diversion programs as an option within the state's criminal sentencing framework.

This research also serves to address the request by Governor Dannel P. Malloy (dated November 5, 2015) for the Connecticut Sentencing Commission to study the state's jail diversionary programs. Citing several concerns raised by criminal justice system stakeholders, the Governor questioned whether the pretrial diversion programs are meeting the needs of the state and its citizens.

Pretrial Diversionary Programs in Connecticut

For the purposes of this study, pre-trial is defined as a person's legal status after an arrest, but before entering a plea or adjudication of the pending criminal charges. Diversion from court is, for this study, limited to the 10 statutory pre-trial programs intended to provide an alternative disposition to the criminal court process for defendants.

The underlying principle of the pre-trial programs is that diverting certain defendants from the traditional criminal court process allows the root causes of a person's criminal behavior to be addressed; thus, reducing the likelihood the person will reoffend in the future. Successful participation in pretrial diversion programs ultimately results in the dismissal of the criminal charges against the defendant and thereby removes the arrest and possible conviction from the defendant's record.

Pretrial diversion programs are voluntary options to traditional criminal justice processing. While each program has a unique focus, the programs share some common characteristics. Pretrial diversion programs use established criteria to determine which defendants are eligible to participate in the program, e.g., first time offenders and/or defendants engaged in specific behavior or charged with specific offenses. These programs are also characterized by standardized supervision and service delivery including, but not limited to drug testing and treatment, counseling, education, and community service. The third

shared characteristic of pretrial diversion programs is that successful completion of a program results in dismissal of the charges.

Eligibility criteria for pretrial diversion programs differ, but most have at least one requirement related to: (1) prior criminal history; (2) current charge(s); (3) substance abuse history; (4) mental health history; (5) victim approval; or (6) restitution repayment. These programs typically target nonviolent offenders. Pretrial diversion programs are intended for defendants who would be better served through community restitution and/or treatment rather than traditional criminal sanctions.

Connecticut law authorizes, and the Judicial Branch or the Department of Mental Health and Addiction Services (DMHAS) currently administer, the following 10 pretrial diversion programs.

1. *Accelerated Pretrial Rehabilitation (AR)*: Available to defendants who are charged with certain crimes or motor vehicle violations who do not have any other criminal conviction. Persons may use AR only once.
2. *Youthful Offender (YO)*: Available to 16- or 17-year-old defendants charged with certain crimes who do not have any other criminal conviction. Persons may use YO only once.
3. *Pretrial Alcohol Education Program*: Available to defendants charged with operating a motor vehicle or boat under the influence of alcohol or drugs. Eligible defendants attend treatment and education programs.
4. *Drug Education and Community Service Program*: Available to defendants charged with violating certain drug possession or drug paraphernalia laws. Defendants are required to participate in drug education and/or substance abuse treatment and perform community service.
5. *Pretrial Family Violence Education Program*: Available to defendants charged with crimes involving family (domestic) violence. Eligible defendants are required to attend programs that provide education about family violence.
6. *School Violence Prevention Program*: Available to public or private school students charged with an offense involving the use or threatened use of physical violence in or on school property. Defendants attend a one-year school violence prevention program.
7. *Supervised Diversionary Program*: Available to defendants with psychiatric disabilities or who are veterans with a mental health

condition charged with certain offenses or motor vehicle violations. Defendants are provided with treatment.

8. *The Suspended Prosecution for Illegal Sale, Delivery, or Transfer of Pistols or Revolvers Program:* Available to defendants charged with the illegal sale, delivery, or transfer of pistols or revolvers. The program is open to defendants whom the court believes will probably not commit more crimes in the future.
9. *Treatment of Defendants who are Dependent on Drugs or Alcohol:* Available to defendants charged with certain crimes and who are dependent on drugs or alcohol. Defendants are required to participate in treatment programs.
10. *Jail Diversion/Court Liaison Program:* Available to certain defendants who would benefit from mental health assessment, referral and links to community-based mental health services in an effort to prevent pre-trial incarceration. DMHAS clinicians work with clients in the 20 arraignment courts throughout the state. This program is also available to certain convicted offenders, but these will not be included in the sample.

Focus of the Study

The population of interest in this study is adult defendants who are eligible to participate in pretrial diversion programs in Connecticut. Information on these defendants' program participation and criminal histories will come from the Judicial Branch, DMHAS, and the contracted provider organizations. Information will also be obtained from criminal justice system stakeholders, victim advocates and offender groups.

The outcomes of interest in this study are (1) whether pretrial diversion programs are used as intended; (2) whether defendants successfully complete the programs; (3) whether defendants were rearrested after program completion; and (4) whether these programs offer a benefit to the state in management of the criminal justice system and supervision of the offender population.

Methodology

This study will determine the overall effect of pretrial diversion program on defendants and the criminal justice system. To do this, the study will focus on the following questions.

1. Are pretrial diversion programs effective based on program-specific outcomes, dosage, and rate of reoffending? What are the measures of effectiveness?

2. What program features are associated with successful program completion and outcomes?
3. Are there differences in defendants' demographics and residency, court location, utilization, etc. among the defendants participating in the programs?
4. Is there disproportionate minority contact in utilization of the programs?
5. What is the usage rate of pretrial diversion programs and has attendance and program completion varied over time? How often do defendants participate in multiple diversion programs (e.g., shifting from one program to another)?
6. Are screening and risk assessment tools effective in identifying eligible defendants and do the programs meet identified needs of program participants? What is the overlap between program eligibility and program selection and does that impact program effectiveness? Is current program capacity adequate to accommodate the number of eligible participants?
7. How do prosecutors, defense attorneys, and the court use pretrial diversion programs?
8. Is there a cost-benefit to pretrial diversion programs?
9. Are the existing pretrial program options sufficient?

To address the research questions, this study will be conducted in four stages. Each stage allows a different layer of information to be gathered to assist with the assessment of pretrial diversion programs. In the first stage, the details of the programs available to defendants will be gathered. For each program, the descriptions of services and dosage will be reviewed and the intended population for each program will be identified. Information will also be gathered to determine trends in program use, completion and outcomes. Information will be collected on the program providers including the contracting for, managing and auditing of provider organizations.

In the second stage, data will be requested on defendants and offenders and the pretrial diversion programs they attended

The third stage will seek to understand how eligibility for each program is determined and how eligible defendants are assessed and selected into various programs. To obtain this information, interviews will be conducted with prosecutors, defense attorneys, judges, probation officers and bail commissioners as well as provider organizations. The goal is to detail how different factors, such as risk assessments, presentence investigations, criminal histories and previous program participation, are considered leading up to

program placement. This information will increase understanding about how similarly situated defendants are granted or denied placement in a program as well as how the programs operate with defendants with varying need levels.

The fourth and final stage of this study will be a statistical analysis reviewing data on programs and outcomes. Client-level and program data collected in the second stage will be used to categorize participants by needs and charges in addition to risk level and criminal history. The analysis will provide information on the frequency and prevalence of program use and comparisons will be conducted to compare and contrast several characteristics (i.e., age, race, gender, identified need, charges, etc.) of the programs participants. The Judicial Branch will be able to provide data on subsequent offending that will be used to measure recidivism of the defendants and offenders during a specified follow-up period. Multiple measures of recidivism will be considered: re-arrest for the same crime, re-arrest for a new crime, and new convictions. Additional analyses will be conducted to determine what program features, behavioral indicators and participant demographics are associated with program completion and recidivism.

As part of this analysis, the Sentencing Commission will collaborate with the Results First Initiative⁵ administered by the Institute for Municipal and Regional Policy (IMRP). Results include programs' First uses a sophisticated econometric model to analyze the costs and benefits of evidence-based programs across a wide variety of social policy areas, including adult criminal justice. The model applies the best available national rigorous research on program effectiveness to predict the programmatic and fiscal outcomes of the evidence-based programs under review in this study. To the extent that agencies can provide the necessary data on program costs, participation level, and benefits, the study will cost-benefit analyses.

Limitations of the Study

Although general information on each pretrial diversion program is available, the researchers have yet to determine what client-level and programmatic data exists that would provide information on dosage, what services are offered, whether those services achieved their intended goals, or whether the services or goals changed over time. The researchers are

5 The Pew-MacArthur Results First Initiative, a project of The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation, works with states to implement an innovative cost-benefit analysis approach that helps them invest in policies and programs that are proven to work. Results First has also received support from the Annie E. Casey Foundation.

committed to working with agencies and service providers to create a network of information that best address these study questions.

Areas Not Under Review

This study does not include pre-trial diversion programs that are not established in state law. The screening or assessment tools used by the Judicial Branch, Department of Mental Health and Addiction Services and private program providers to determine eligibility of defendants or offenders for specific programs will not be validated. The focus of this study does not extend beyond defendants participating in 10 pretrial diversion programs and other alternative incarceration or sentencing options will not be reviewed.

Timeline for Study

April-July 2016	Compile information about the programs. Request data from Judicial Branch, DMHAS, and provider organizations. Interview criminal justice system stakeholders and provider organization administrators and staff. Review literature and best practices for pretrial diversion programs and administration.
August-October 2016	Conduct statistical analyses
September 2016	Staff briefing presentation to commission
November 2016	Staff final report and presentation to commission
December 2016	Commission final action on staff report
January 13, 2017	Submit final report to the Governor

May 19, 2016