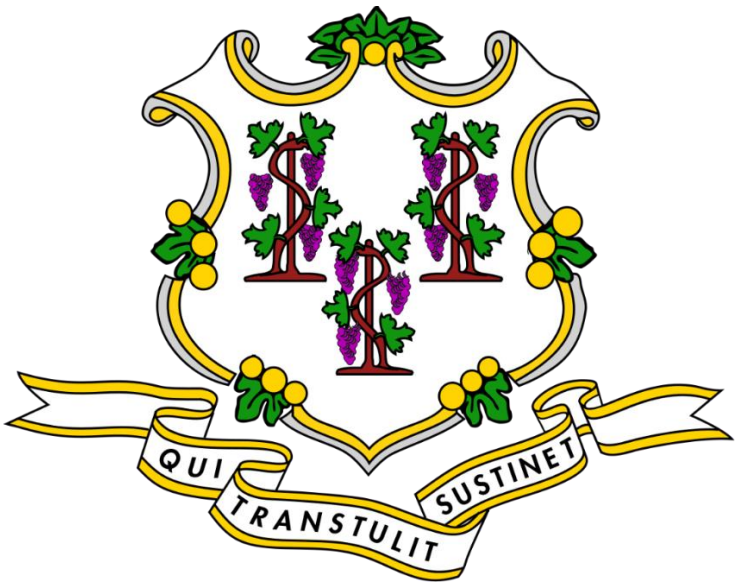
2019 ANNUAL REPORT

Connecticut Sentencing Commission

2019 Annual Report

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)

Judge Robert Devlin, Jr.
Sentencing Commission Chair

Alex Tsarkov
Executive Director

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Table of Contents

Acknowledgments 3

Commission Members 4

Committee and Work Group Members 6

- Steering Committee
- Pretrial Release and Detention Advisory Group
- Subcommittee on Incarceration and the Collateral Consequences of Criminal Conviction
- Subcommittee on Diversionary Programs
- Subcommittee on Mental Illness in Connecticut's Incarcerated Population
- Work Group on Voting Access in Connecticut's Incarcerated Population
- Subcommittee on Sentence Review, Sentence Modification, and Motions to Correct Illegal Sentences
- Commission Staff

Executive Summary 9

I. Mission and Membership 11

II. National Overview 12

III. Activities of the Commission 14

- Commission Meetings
- Steering Committee
- Pretrial Release and Detention
- Sex Offender Registry
- Incarceration and the Collateral Consequences of Criminal Conviction
- Voting Rights & Access for Connecticut's Correctional Population
- Sentencing Outcomes for Firearm Offenses
- Evidence-Based Sentencing
- Pretrial Diversionary Programs
- Mental Illness in Connecticut's Incarcerated Population
- Study on Racial, Ethnic, Gendered and Socioeconomic Disparities
- Impact of Criminal Records on State Licensure Applications
- Sentence Review and Modification
- Sex Workers and Nonconsensual Removal of Contraception During Intercourse

IV. 2020 Symposium 18

V. 2019 Legislation 19

Appendices 20

Acknowledgments

In 2019, the Connecticut Sentencing Commission commemorated its ninth year of work. The Commission was established by PA 10-129, codified as CGS § 54-300, and became effective on February 1, 2011.

Though the Commission receives assistance from sources too numerous to mention, we want to recognize the dedication of our Steering Committee, subcommittees, and work groups. 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 these committees, subcommittees, and work groups. Their contributions are invaluable to the work of the Sentencing Commission.

Under Judge Devlin's leadership, with his years of experience on the bench and his tremendous talent for understanding and managing complex criminal justice matters, the Commission is tackling difficult issues, such as reforming the sexual offender registry, addressing unintended immigration consequences of state criminal conviction and improving the state's pretrial justice system. The Commission thanks him for his continued guidance and direction.

Lastly, the Connecticut Sentencing Commission extends its sincere appreciation to numerous state agencies, universities and community organizations for their partnership and support. In 2019 alone, the Commission partnered with the Worker and Immigration Rights and Advocacy Clinic at Yale Law School, the Connecticut Association for the Treatment of Sexual Offenders, the Children with Incarcerated Parents Initiative, the National Institute of Corrections, the Quinnipiac University School of Law, the University of Connecticut School of Law, the Connecticut Immigration Right's Alliance, the Registrars of Voters Association of Connecticut, CT Town Clerks Association and many other community groups committed to advancing a more equitable and just criminal justice system. The Commission looks forward to continuing these partnerships in 2020.

Commission Members

Robert J. Devlin, Jr., *Chair*
Appellate Court Judge
Appointed by: Chief Justice of the Supreme Court

John Santa, *Vice Chair*
Chairman, Malta Justice Initiative
Appointed by: Minority Leader of the Senate

Marc Pelka
Undersecretary, Criminal Justice Policy and Planning Division, Office of Policy and Management
Ex officio: Undersecretary for Criminal Justice Policy and Planning

Patrick L. Carroll, III
Chief Court Administrator
Appointed by: Chief Justice of the Supreme Court

Gary White
Administrative Judge, J.D. G.A. 1 Courthouse
Appointed by: Chief Justice of the Supreme Court

Hillary Strackbein
Administrative Judge, New London Judicial District
Appointed by: Chief Justice of the Supreme Court

Gary Roberge
Executive Director, Judicial Branch Court Support Services Division
Appointed by: Chief Justice of the Supreme Court

Sarah Russell
Professor of Law, Quinnipiac University School of Law
Appointed by: Governor

William R. Dyson
Appointed by: Speaker of the House of Representatives

Michael Chase
Associate, Shipman & Goodwin LLP
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

Commission Members, Continued

Jennifer L. Zito
Criminal Defense Attorney
Appointed by: President of the Connecticut Criminal Defense Lawyers Association

Gail Hardy
State's Attorney, Judicial District of Hartford
Appointed by: Chief State's Attorney

Mark A. Palmer
Chief of Police, Coventry Police Department
Appointed by: President of the CT Police Chiefs Association

Kevin Kane (*retired Nov. 2019*)
Chief State's Attorney
Ex officio: Chief State's Attorney

Christine Rapillo
Chief Public Defender
Ex officio: Chief Public Defender

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

James Rovella
Commissioner, Department of Emergency Services & Public Protection
Ex officio: Commissioner of Emergency Services & Public Protection

Rollin Cook
Commissioner, Department of Correction
Ex officio: Commissioner of the Department of Correction

Natasha Pierre
State Victim Advocate
Ex officio: State Victim Advocate

Carleton Giles
Chair, Board of Pardons and Paroles
Ex officio: Chair of the Board of Pardons and Paroles

Committee & Work Group Members

STEERING COMMITTEE

Name	*Affiliation*
Robert J. Devlin, Jr., *Chair*	Appellate Court Judge
John Santa, *Vice Chair*	Malta Justice Initiative
Patrick Carroll	Chief Court Administrator
William Dyson	
Robert Farr	
Kevin Kane	Office of the Chief State's Attorney
Marc Pelka	Office of Policy and Management
Christine Rapillo	Division of Public Defender Services
Sarah Russell	Quinnipiac University School of Law

PRETRIAL RELEASE AND DETENTION ADVISORY GROUP

Name	*Affiliation*
Robert J. Devlin, Jr., *Chair*	Appellate Court Judge
John Santa, *Vice Chair*	Malta Justice Initiative
Natasha Pierre	State Victim Advocate
Thomas Kulhawik	Chief, Norwalk Police Department
Kevin Lawlor	Deputy Chief State's Attorney
Gary Roberge	Judicial Branch Court Support Services Division
Sarah Russell	Quinnipiac University School of Law
Christine Rapillo	Chief Public Defender
Mike Hines	Judicial Branch Court Support Services Division
Jennifer Zito	Connecticut Criminal Defense Lawyers Association
Bryan Sperry	Judicial Branch Court Support Services Division
Alex Tsarkov	Connecticut Sentencing Commission
Gail Hardy	State Attorney's, Judicial District of Hartford

SUBCOMMITTEE ON INCARCERATION AND THE COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION

Name	*Affiliation*
John Santa, *Chair*	Malta Justice Initiative
Sarah Russell, *Vice Chair*	Quinnipiac University School of Law
Christine Rapillo	Chief Public Defender
Brian Austin	Division of Criminal Justice
Deborah Del Prete Sullivan	Division of Public Defender Services
David Warner	Division of Public Defender Services
Gary Roberge	Judicial Branch Court Support Services Division
Michael Hines	Judicial Branch Court Support Services Division
Jennifer Zito	Connecticut Criminal Defense Lawyers Association

SUBCOMMITTEE ON DIVERSIONARY PROGRAMS

Name	*Affiliation*
Hillary Strackbein, *Chair*	Administrative Judge, New London Judicial District
Deborah Del Prete Sullivan	Division of Public Defender Services
Robert J. Devlin, Jr.	Appellate Court Judge
Joseph Lopez	Division of Public Defender Services
Sarah Russell	Quinnipiac University School of Law
Robert Satti	Office of the Chief State's Attorney
Jennifer Zito	Connecticut Criminal Defense Lawyers Association

SUBCOMMITTEE ON MENTAL ILLNESS IN CONNECTICUT'S INCARCERATED POPULATION

Name	*Affiliation*
Michael Chase, *Chair*	Shipman & Goodwin LLP
Robert J. Devlin, Jr.	Appellate Court Judge
Gary Roberge	Judicial Branch Court Support Services Division
Christine Rapillo	Division of Public Defender Services
John Santa	Malta Justice Initiative
William Murphy	Department of Correction
Michael Norko	Department of Mental Health and Addiction Services
Thomas Canny	Judicial Branch Court Support Services Division
Gavin Galligan	Department of Correction
Alex Tsarkov	Connecticut Sentencing Commission
Craig Burns	Department of Correction
Thomas Kocienda	Department of Correction

WORK GROUP ON VOTING ACCESS IN CONNECTICUT'S INCARCERATED POPULATION

Name	*Affiliation*
Trina Sexton	Department of Correction
Sue Larson	Registrar of Voters Association of Connecticut
Chris Prue	Registrar of Voters Association of Connecticut
Katherine Wall	Connecticut Town Clerks Association
Amy Eppler-Epstein	New Haven Legal Assistance
Melvin Medina	ACLU of Connecticut
James Jeter	Unlock the Vote
Joseph Gaylin	Unlock the Vote
Sarah Russell	Quinnipiac University School of Law
Mary Janicki	Connecticut Sentencing Commission
Alex Tsarkov	Connecticut Sentencing Commission

SUBCOMMITTEE ON SENTENCE REVIEW, SENTENCE MODIFICATION, AND MOTIONS TO CORRECT ILLEGAL SENTENCES

Name	*Affiliation*
Gary White, *Chair*	Administrative Judge, J.D. G.A. 1 Courthouse
Deborah Del Prete Sullivan	Division of Public Defender Services
Robert J. Devlin, Jr.	Appellate Court Judge
Joseph Lopez	Division of Public Defender Services
Sarah Russell	Quinnipiac University School of Law
Robert Satti	Office of the Chief State's Attorney
Jennifer Zito	Connecticut Criminal Defense Lawyers Association

COMMISSION STAFF

Alex Tsarkov
Executive Director

Mary M. Janicki
Senior Research and Policy Analyst

Andrew Clark
Commission Advisor

Cynthia Samokar
Research and Policy Intern

Frederick V. Augur
Research and Policy Intern

Executive Summary

In 2019, the Sentencing Commission advanced research and policy reform efforts on multiple criminal justice initiatives in the state of Connecticut.

The Commission continued its work on two legislative proposals from 2018. The first, *SB 948, An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Misdemeanor Sentences,* aimed to reduce the maximum penalty for misdemeanors to a 364-day sentence. This change would have limited the federal immigration-related penalties non-citizens could face if convicted of a misdemeanor in Connecticut.

The second bill, *SB 1113, An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to the Sexual Offender Registry, Petitions to Terminate Parental Rights of Incarcerated Parents, and Sentence Review,* proposed to reform Connecticut's sex offender registry based on years of data-driven research by the Commission. This bill would have transitioned Connecticut's offense-based registry to a risk-based registry. It would have changed how the registry is managed and maintained, providing long-term benefits to victims, law enforcement, low-risk offenders, and the general public. Other parts of the bill sought to rectify the unintended negative consequences of the federal Adoption and Safe Families Act for children whose parents are incarcerated, and aimed to make important changes to the sentence review and sentence modification statutes.

Unfortunately, the Connecticut General Assembly did not pass either bill in the 2019 legislative session. The Commission intends to reintroduce versions of these bills during the 2020 session.

In 2019, the Commission also testified in support of bills that would have expanded voting rights for people on parole and provided for the automatic erasure of certain records.

In addition to its legislative work, during 2019, the Commission continued its research on possible reforms to Connecticut's pretrial justice system. The Commission was successful in amending Practice Book Rule to allow ten percent cash bail to be available automatically for surety bonds under $20,000 both at court and at the police departments.

This year, the Commission also launched a number of new initiatives in response to recent policy developments and requests from legislators. The first of these initiatives concerns voting access for pretrial detainees and incarcerated misdemeanants. To better understand the obstacles these populations face when trying to vote, the Commission assembled a work group of stakeholders to coordinate voter registration and absentee ballot application drives at the York Correctional Facility.

In 2019, the Commission also assembled a subcommittee to study the prevalence and impact of chronic mental illness in Connecticut's incarcerated population. Pursuant to another legislator's request, the Commission continues to explore the best way to reduce the pretrial detained population while also moving away from monetary bail as a detention mechanism.

This year, in response to the legislative mandate issued under Special Act 19-17, *An Act Concerning a Study of the Disparities in Pretrial and Sentencing outcomes of Criminal Defendants*, the Commission has commenced a new project to study and quantify racial, ethnic, gender and socioeconomic disparities in Connecticut's criminal justice system.

The Commission's annual symposium will take place on January 17, 2020 at the University of Connecticut School of Law School. Invited panelists and guest speakers will present research and analysis of disparities in criminal justice, and share suggestions for achieving a more equitable and fair system. This year's program will include talks by Marc Mauer of the Sentencing Project and Attorney Ben Crump of Ben Crump Law.

I. Mission and Membership

The Connecticut Sentencing Commission was established on February 1, 2011, pursuant to Public Act 10-129. 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"

The Commission works at the state level to affect policy changes that will improve Connecticut's criminal justice system. The Commission draws upon its members' expertise and experience and works closely with elected officials and state agency leaders to promote comprehensive, data-driven policies that enhance public safety, hold offenders accountable, and ultimately reduce criminal activity overall.

The Commission consists of 23 voting members, including judges, prosecutors, criminal defense counsel, the commissioners of the Departments of Correction (DOC), Emergency Services and Public Protection (DESPP), and Mental Health and Addiction Services (DMHAS), 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 (OPM), and members of the public appointed by the governor and the leaders of the General Assembly.

In 2019, the Sentencing Commission welcomed one new member, Gail Hardy, the State's Attorney for the Judicial District of Hartford. There are currently two vacancies on the Sentencing Commission. With the retirement of Chief State's Attorney Kevin Kane in November of 2019, the corresponding *ex officio* position on the Commission will be vacant until a new Chief State's Attorney is appointed. Additionally, the President *Pro Tempore* of the Senate's appointed position on the Commission is currently vacant.

The administrative work and policy research of the Commission is supported by an Executive Director, part-time staff, and interns through the Institute for Municipal and Regional Policy at Central Connecticut State University.

II. National Overview

NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS (NASC)

The National Association of Sentencing Commissions (NASC) is a nonprofit 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 and guidelines and commissions." NASC was established to enable individuals in the criminal justice field to share information and experiences. NASC membership includes states with and without sentencing guidelines, states with presumptive and voluntary guidelines, and states with determinate and indeterminate sentencing practices.

NASC provides members a forum to exchange experiences about 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. Promoting collaboration and cooperation among members is core to the NASC's mission and has helped states take more informed approaches to sentence reform. Additional information about NASC is available at http://www.thenasc.org/aboutnasc.html.

The Connecticut Sentencing Commission's Executive Director, Alex Tsarkov, serves on the NASC Executive Committee. In this role, Mr. Tsarkov provides direction and input for the national commission's activities and conference program offerings. His term of office will expire in 2020.

2019 NASC Annual Conference

In 2019, the National Association of Sentencing Commissions' annual conference was hosted by the Virginia Sentencing Commission in Richmond on August 5-7th.

The conference featured presentations on racial disparities, pretrial release reforms, the impact of parental incarceration on children, and other contemporary developments in criminal justice reform.

Conference Highlights

Five plenary sessions and six breakout sessions were presented at this year's conference.

Plenary Sessions

- Have Sentencing Guidelines Reduced Racial Disparities?
- Pretrial Release Mechanisms and Outcomes in Virginia
- Criminal History Enhancements and Guidelines
- Recidivism and 2011 Fair Sentencing Act Guideline Amendment
- FIRST STEP Act – Roundtable Discussion

Breakout Sessions

- Gender-Specific Reforms
- Transformation of Virginia Detention and Diversion Centers
- Informed Decision Making: Considering the Impact of Parental Incarceration on Children and the Utility of Family Responsibility Statements
- Administrative Response Matrix
- The Intersection of Criminal Justice Policy and Federal Enforcement
- Bail Reform: Moving Toward Legal and Evidence-Based Practices

III. Activities of the Commission

COMMISSION MEETINGS

By statute, the Sentencing Commission must meet at least four times each calendar year. In 2019, the Sentencing Commission met five times: January 25, March 28, May 16, September 12, and December 5.

STEERING COMMITTEE

Nine members of the Commission serve on the Steering Committee. The committee is responsible for the Commission's budget and administration, setting meeting schedules and agendas, overseeing projects and subcommittee research activities, and selecting recommendations and legislation for the full Commission to consider.

PRETRIAL RELEASE AND DETENTION

Since the enactment of An Act Concerning Pretrial Justice Reform (PA 17-145), the Commission continues to discuss and analyze reform proposals for Connecticut's pretrial release and detention system.

On January 28, 2019, the Commission sent a request to the Rules Committee of the Superior Court requesting an amendment to the *Connecticut Practice Book* to provide for an automatic option to allow defendants to be released by depositing ten percent of the bond amount for any surety bonds of $20,000 or less with the court. Unlike defendants utilizing bail bondsmen to secure release, defendants utilizing the ten percent cash option receive their money back once their cases are adjudicated.

This proposal was approved by the Rules Committee and went into effect on January 1, 2020. The Commission is working to raise public awareness of this change and aims to measure its impact on pretrial justice.

In 2019, the Commission also partnered with the Urban Institute to study Connecticut's Pretrial Risk Assessment tool. The report discussed (1) the benefits and drawbacks of potentially transitioning to a tool that generates separate risk scores for re-arrest and failure to appear, (2) the changes that would need to be made to the current tool in a nonmonetary bail system, and (3) potential sources of bias in the current tool and how future research could aim to reduce those disparate impacts. The full report is available on the Commission's website .

This year, the Commission received a request from the President *Pro Tempore* of the Senate to develop a pretrial justice reform proposal that would reduce the pretrial population and eliminate the use of money in bail for detention purposes while maintaining public safety. To fulfill this request, the Commission is collaborating with retired Judge Jon Silbert as well as its Advisory Group on Pretrial Release and Detention.

In its work on pretrial release and detention, the Commission has received a grant from the Hartford Foundation for Public Giving. An anonymous donor has generously provided the Commission with a grant of $25,000 to support its ongoing work on bail reform. This funding will go a long way towards supporting its ongoing research for both the pretrial release and detention initiative and the forthcoming study on disparities in Connecticut's criminal justice system.

SEXUAL OFFENDER REGISTRY

Special Act 15-2 required the Commission to research and develop proposals for reforming Connecticut's policies for sexual offenders, including the state's management of the sex offender registry, the sentencing of sex offenders, obstacles faced by sex offender registrants, and the usefulness of the sex offender registry to law enforcement and the general public. In the 2020 legislative session, the Sentencing Commission will reintroduce a modified version of its legislative proposal to reform the sex offender registry.

INCARCERATION AND THE COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION

In 2019, this subcommittee continued its work on several fronts. Members have considered proposals that would automatically expunge criminal records for (1) the possession of under half an ounce of marijuana, which was decriminalized in 2011 and (2) adult misdemeanor offenses of 16- and 17-year old's committed by juvenile defendants before the juvenile age was raised to 18. Other topics of discussion included compassionate release mechanisms for ill or aging inmates, the financial costs of incarceration for offenders, and a proposal providing for the discretionary judicial vacatur of convictions for human trafficking victims.

VOTING RIGHTS & ACCESS FOR CONNECTICUT'S CORRECTIONAL POPULATION

In 2019, the Commission supported a legislative proposal to restore the right to vote for those on parole for a felony conviction. A Commission work group established by the Collateral Consequences subcommittee also explored issues faced by eligible inmates when voting from Connecticut's correctional facilities. To better understand these issues, the work group conducted voter registration and absentee ballot application drives at York Correctional Institute for incarcerated misdemeanants and pretrial detainees. Under current law, these citizens can vote by absentee ballot in the town of their previous residence. The work group is exploring potential statutory and administrative changes that could eliminate the obstacles faced by the detained and incarcerated individuals seeking to vote.

SENTENCING OUTCOMES FOR FIREARM OFFENSES

The Commission is currently finalizing a report on its analysis of Connecticut's firearms laws, handgun permitting process, firearm offense statistics, and sentencing outcomes.

EVIDENCE-BASED SENTENCING

In 2018, the Commission approved a proposal from the University of Maryland to perform an evidence-based assessment of sentencing practices in Connecticut. The authors completed this study in 2019 and presented their findings on risk- and needs-based assessment tools and sentencing to the Commission in September. They found that offenders with higher risk scores were more likely to be incarcerated in Connecticut, which suggests that Connecticut's sentencing practices are already relatively risk- and needs-based. The researchers did find, however, that link between sentence length and risk score was relatively weak. The full report for this study is available on the Commission's website.

PRETRIAL DIVERSIONARY PROGRAMS

As of the end of 2019, the Commission has 1) approved the scope for a study on the state's pretrial diversionary programs 2) summarized the details of the nine programs under review in this study, and 3) obtained program data from the Judicial Branch Court Special Services Division. The Commission is in the process of analyzing this data to better understand diversionary program outcomes, program capacities, utilization rates, and participants' rates of recidivism. Once the data analysis is complete, the subcommittee on diversionary programs will review and bring its findings to the full Commission.

MENTAL ILLNESS IN CONNECTICUT'S INCARCERATED POPULATION

The Commission formed a new subcommittee to study mental illness in Connecticut's incarcerated population in response to a request from Sen. Osten. The subcommittee is currently developing a study that will document the incidence on chronic mental illness among incarcerated offenders, the mental healthcare services available to them, their success in obtaining early release, and their utilization of the re-entry services available to them.

STUDY ON RACIAL, ETHNIC, GENDERED, AND SOCIOECONOMIC DISPARITIES

In 2019, Governor Lamont signed Special Act 19-17 into law, which requires the Commission to conduct a study on racial, ethnic, gendered, and socioeconomic disparities in pretrial and sentencing outcomes. The Commission has partnered with professors from the University of Connecticut and developed a proposal for this study. An interim report detailing the methodology, timeframe, and status of the study is available on the Commission's website. The final report will be completed by January of 2021.

IMPACT OF CRIMINAL RECORDS ON STATE LICENSURE APPLICATIONS

Members of the Collateral Consequences subcommittee have been working with Professor Alec Ewald from the University of Vermont to design a study that will explore the impact of a criminal record on offenders' abilities to obtain occupational licenses and certifications in the State of Connecticut. This study is set to commence in the Spring of 2020.

SENTENCE REVIEW AND MODIFICATION

Building on the Commission's proposal to expand eligibility for sentence modification and reduce eligibility for sentence review, the subcommittee is continuing to review the state's release mechanisms. The working group is currently considering possible statutory changes that would expand resentencing and release options available to defendants serving very long sentences or facing "extraordinary and compelling circumstances," such as terminal illness or the death of their children's primary caretaker.

SEX WORKERS AND NONCONSETUAL REMOVAL OF CONTRACEPTION DURING INTERCOURSE

In 2019, the Commission received a legislative request to examine (1) the current status and possible reforms to the criminal laws concerning sex workers in other jurisdictions, and (2) the legality of and potential proposals concerning the nonconsensual removal of contraception during sexual intercourse. The Commission will begin researching these topics in 2020.

IV. 2020 Symposium

The annual Connecticut Sentencing Commission symposium will be held on January 17, 2020 at the University of Connecticut School of Law in Hartford, Connecticut. This all-day symposium will focus on racial, ethnic, and socioeconomic disparities in criminal justice. The panel discussions will address topics including racial profiling and disparities in pretrial outcomes, sentencing, and incarceration. This event is open to Sentencing Commission members, affiliates, and the public. This symposium will include an open and informational dialogue and feature presentations from national experts on disparities in the criminal justice. An agenda for the Symposium is included in Appendix F.

V. 2019-2020 Legislative Sessions

ENACTED

In 2019, the legislature passed and the governor signed Special Act 19-17 into law, which requires the Connecticut Sentencing Commission to study "potential disparities in pretrial and sentencing outcomes related to the racial, ethnic, gender and socioeconomic status of a criminal defendant." An interim report is due on January 1, 2020, and the final report is due on January 1, 2021. The Commission is partnering with Professors Miguel de Figueiredo and Stephen Ross of the University of Connecticut to develop a study that will document and quantify disparities in accordance to the legislative mandate.

PROPOSED

In 2019, the Commission proposed two bills in the Judiciary Committee:

- SB 948, An Act Concerning Recommendations of the Connecticut Sentencing Commission with Respect to Misdemeanor Sentences
- SB 1113, An Act Concerning Recommendations of the Connecticut Sentencing Commission with Respect to the Sexual Offender Registry, Petitions to Terminate Parental Rights of Incarcerated Parents and Sentence Review

SUPPORTED

The Commission testified in support of three other bills that were considered by the Judicial committee. These included:

- SB 691, An Act Concerning Erasure of Certain Misdemeanor Criminal Records and Expedited Pardons for Certain Felony Offenses
- SB 843, An Act Concerning the Unlawful Dissemination of Intimate Images
- HB 7349, An Act Concerning Identity Theft Victim Access to Records

Lastly, the Commission supported one bill considered by the Government Administration and Elections Committee:

- SB 25, An Act Restoring Electoral Privileges to Felony Convicts Who Are on Parole.

The Commission is planning to reintroduce these proposals in the 2020 legislative session.

APPENDICES

APPENDIX A: C.G.S §54-300. Sentencing Commission

APPENDIX B: Letter Requesting a Study on Inmates with Chronic Mentally Illness

APPENDIX C: Letter Requesting a Study on Nonmonetary Bail

APPENDIX D: Letter to Judicial Rules Committee Regarding Ten Percent Rule

APPENDIX E: Special Act 19-17

APPENDIX F: 2020 Symposium Agenda

APPENDIX A

Sec. 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

SENATOR CATHY OSTEN
Nineteenth District

Legislative Office Building
Room 2700
Hartford, CT 06106-1591
Tel. 860-240-0579
Toll-free 1-800-842-1420
www.senatedems.ct.gov/Osten

State of Connecticut
SENATE

Chair
Appropriations Committee
Vice Chair
Labor & Public Employees Committee
Public Safety & Security Committee
Member
Legislative Management Committee
Regulation Review Committee
Transportation Committee
Veterans' Affairs Committee

September 4, 2019

Honorable Robert J. Devlin, Jr.
Chair, Connecticut Sentencing Commission
185 Main Street, Room 212
New Britain, CT 06051

RE: Study concerning Inmates established as Chronically Mentally Ill

Dear Judge Devlin,

I am writing to respectfully request that the Connecticut Sentencing Commission undertake a study to provide data on the number of inmates in Connecticut prisons who are identified as chronically mentally ill, ascertain if this class of inmates is completing a longer portion of their sentences as compared to other inmates, and if so, the reasons why, and determine if this class of inmates accesses programs which allow for a smooth transition into the community at the same percentage rate as other inmates access such programs. To assist the Commission's efforts with this study, I am enclosing a copy of my Proposed Bill No. 760 from the 2019 regular legislative session for your reference.

Thank you for undertaking this important task. I look forward to your Commission's findings. Please don't hesitate to contact me with any questions.

Sincerely,

Catherine A. Osten
State Senator, 19th District

Enclosure

APPENDIX C

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE
Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

October 15, 2019

Hon. Robert J. Devlin, Jr.
Chair, Connecticut Sentencing Commission
185 Main Street, Room 212
New Britain, CT 06051

Re: a study on non- monetary bail

Dear Judge Devlin,

I am writing to respectfully request that the Connecticut Sentencing Commission undertake a study and develop recommendations for a proposal on pretrial justice that would (1) reduce the pretrial detained population and (2) eliminate money bail as a detention mechanism so that release/detention decisions are not impacted by the amount of money defendants may or may not have while (3) ensuring that public safety is not negatively impacted. It appears evident that the current pretrial detention system does not provide for equal justice for all of those who are accused of crimes and that it also perpetuates inequalities based on wealth.

Thank you for your willingness to examine this extraordinarily important issue.

Sincerely,

Martin Looney

Martin M. Looney
State Senator, Eleventh District

CC: Senator Winfield

APPENDIX D

CONNECTICUT SENTENCING COMMISSION

Hon. Robert J. Devlin
Chair

Alex Tsarkov
Executive Director

Website:
www.ct.gov/ctsc
Email:
SentencingCommission@ccsu.edu
Mailing Address:
Connecticut Sentencing Commission
Room 212
185 Main ST
New Britain, CT 06051

January 25, 2019

Rules Committee of the Superior Court
Connecticut Supreme Court Building
231 Capitol Avenue
Hartford, CT 06106

Dear Members of the Rules Committee,

On behalf of the Connecticut Sentencing Commission, we are writing to request that you consider a rule change to the *Connecticut Practice Book* to make the ten percent cash bail provision an automatic option for defendants whenever a surety bond of $20,000 or less is imposed. Enclosed please see the draft of the proposed rule.

As you know, the ten percent cash option is already authorized in the *Practice Book* and is available if requested by the defendant and granted by a judge. If granted, defendants receive their money back once their case is disposed.

An automatic option of ten percent to the court would assist indigent persons to make a bond. It would lessen the burden on those who could barely afford it and it may help those defendants who are detained on low-level charges to make their bond.

This proposal was endorsed by the Connecticut Sentencing Commission in its 2017 report on pretrial release and detention. As you know, the Commission's membership consists of all the major stakeholders in the criminal justice system of Connecticut including superior court judges, the Chief State's Attorney, the Chief Public Defender, the Victim Advocate; the commissioners of Corrections, Emergency Services and Public Protection, and Mental Health and Addiction Services; community activists interested in the criminal justice system, the chair of the Board of Pardons and Paroles, municipal police chiefs, the undersecretary of the criminal justice policy and planning division, as well as others vitally engaged in the criminal justice system.

We realize that expanded utilization of ten percent cash is not a long-term solution to pretrial justice issues. The only way to address those issues is to move to a no-money bail, in-or-out type of system where the vast majority of defendants are released, and some small number are detained after an on-the-record hearing conducted with the proper due process considerations.

The Sentencing Commission will continue its efforts to move in that direction. In the meantime, we ask that you amend the *Practice Book* to expand the ten percent cash option and improve the pretrial justice system in the state.

Thank you in advance for your consideration. If you have any questions, we would be glad to provide further information.

Sincerely,

Honorable Robert J. Devlin, Jr.	Alex Tsarkov
Chair	Executive Director

Proposed Sec. 38-8. Ten Percent Cash Bail

Unless otherwise ordered by the judicial authority, 10 percent cash bail shall be automatically available for surety bonds not exceeding $20,000. For surety bond amounts exceeding $20,000, 10$ cash bail may be granted pursuant to an order of the judicial authority.

When 10 percent cash bail is authorized either automatically or pursuant to court order, upon the [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 them 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.

APPENDIX E

Senate Bill No. 1008

Special Act No. 19-17

AN ACT CONCERNING A STUDY OF THE DISPARITIES IN PRETRIAL AND SENTENCING OUTCOMES OF CRIMINAL DEFENDANTS.

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

Section 1. (*Effective from passage*) (a) The Connecticut Sentencing Commission shall study potential disparities in pretrial and sentencing outcomes related to the racial, ethnic, gender and socioeconomic status of a criminal defendant. In furtherance of such study, said commission shall have access to: (1) All databases maintained in the state's criminal justice information system; (2) the Connecticut Information Sharing System; and (3) any state or local criminal or judicial databases that have not yet been integrated into the Connecticut Information Sharing System.

(b) Not later than January 1, 2020, said commission shall submit an interim report on the study, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary. Not later than January 1, 2021, said commission shall submit its final report on the study and any recommendations from the commission, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General

Assembly having cognizance of matters relating to the judiciary and to the Governor.

Approved July 1, 2019

APPENDIX F

TOWARDS EQUAL PROTECTION UNDER LAW

The Impact of Disparities in Connecticut's Justice System

Connecticut Sentencing Commission Symposium

Friday, January 17th, 2020
8:30 a.m. – 4:00 p.m.

8:45 -9:15 a.m.	**Check-in and Continental Breakfast**
9:15-9:30 a.m.	**Welcome and Opening Remarks** Judge Robert Devlin, Jr., Chair, Connecticut Sentencing Commission Jamelia Morgan, Associate Professor, University of Connecticut School of Law
9:30 -10:30 a.m.	**Keynote: Addressing Racial Disparities in Incarceration** Marc Mauer, Executive Director, The Sentencing Project
10:30-10:45 a.m.	**Break**
10:45-12:00 a.m.	**Racial Profiling: What Does the Data Tell Us?** *Moderator:* Bill Dyson, Chair, Connecticut Racial Profiling Advisory Board Ken Barone, Project Manager, Institute for Municipal and Regional Policy Michael Gailor, Middletown State's Attorney Ronnell Higgins, Chief of Police, Yale Police Department Tamara Lanier, Connecticut Racial Profiling Advisory Board Joseph Race, Captain, Madison Police Department Dr. Stephen Ross, Professor of Economics, University of Connecticut
12:00-12:45 p.m.	**Lunch**
12:45-1:45 p.m.	**Elimination of Money Bail: Obstacles and Solutions** *Moderator:* Hon. Jonathan E. Silbert, Retired Superior Court Judge Judge Robert Devlin, Jr., Chair, Connecticut Sentencing Commission Chris Rapillo, Chief Public Defender Kevin Lawlor, Deputy Chief State's Attorney Isabel Blank, The Yankee Institute
1:45-2:45 p.m.	**Legislative and Policy Panel: A conversation about Justice & Equity** *Moderator:* Steven Hernandez, Executive Director, CWCSEO State Senator Gary Winfield, Co-Chair of the Judiciary Committee Marc Pelka, Undersecretary, Criminal Justice Policy and Planning Division Daryl McGraw, Justice Impacted Advisor Tracie Bernardi, Justice Impacted Advisor
2:45-3:00 p.m.	**Break**
3:00-4:00 p.m.	**Race and the Criminal Justice System: A Conversation with Civil Rights Attorney Ben Crump** *Moderator:* Jamelia Morgan, Associate Professor of Law & Robert D. Glass Research Scholar, University of Connecticut School of Law
4:00-4:15 p.m.	**Final Remarks** Judge Robert J. Devlin, Jr., Chair, Connecticut Sentencing Commission