

Senate Committee on Judiciary January 23, 1991 - Page

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

Measures Heard SB 616, PH SB 619, PH SB 620, PH

SENATE COMMITTEE ON JUDICIARY

February 18, 1991Hearing Room C 1:00 p.m.Tapes ? - ?

MEMBERS PRESENT:Sen. Joyce Cohen, Chair Sen. Jim Hill, Vice-Chair
Sen. Peter Brockman Sen. Jim Bunn Sen. Jeannette Hamby Sen. Bob
Shoemaker Sen. Dick Springer

STAFF PRESENT: Ingrid Swenson, Committee Counsel Kate Wrightson,
Committee Assistant

WITNESSES: ?Name ?Name

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TAPE ?, SIDE A

002 CHAIR COHEN: Calls meeting to order at 1:09 p.m.

bill introduction

CHAIR COHEN: have consolidated 20 forfeiture bills as 7 bills.\\\get
this later. sexual orientation bill. hearing none, so ordered.

CJC HEARING

DAN KENNEDY, cjc: prison population forecasting. gove task force on
ocrcorrectional planning has plan with need for corrections forecasting.
no way to accurately plan w/o such. 90-23 exec order. submits
testimony (Exhibit A). model used is our own revenue, issued by state
economosit, A &FSD forecast. NCCD model.

JIM CARBONI, executive dept. wlfare caseloads diff. to forecast.
developed process which recognizes innumerable factors, but creates
general projections. involve lots of people. strict methodology.
tried to adapt philosophy for corr. popualation forecasts. baseline
forecast priduces by NCCD model. most sohpnsticated model available.

each quarter, technical working group from \\ reviews model and assumptions used in it, updated on regular basis. provided to forecasting advisory committee. has met once. first forecast in November, and copy provided. will update forecast every 3 months. second forecast in march. questions?

hardy myers, chair, cjc: felony sentencing guidleins to now. 15 months exp. review work undertaken by cjc and guidelines board, to smmoth onset of guidelines themselves in 1989. 2 fed grants, staff developed g-lines manual. board adopted commentary to manual. undertook program for formal training for corrections community. judges, prosecutors, defense attys, parole & probation people. cjc got lots of inquiries about interpretation and application. developed internal procedure to regularize answers. determine whether ?s should go to the board. mostly more informal. basis for preparation of proposed amendments to the guidelines. way of identifying ptential changes. amends later in session.

SEN. HILL: any major changes proposed?

MYERS: proposal center may require modification in drug classification portion. interaction between \\ murder statues and guidelines. criminal history. mostly, with exception of those, straightforward, housekeeping, etc. not dramatic.

kathleen bogan: areas of operation of interest to committee last session. appeal rates, court processing times, etc. introduces black booklet. court processing times: guidelines affect trial rate? not as willing to plead? actually it's more now. pre-sentence investigation reports are very important. before g-lines, 70% had them, now its onlu 24%. in mult. cty, probation officers are now back on caseload instead of writing reports. amend language in stuatute\\ more than half offenders are found guildty and sentenced on same day. decreased time to sentencing. appeals: was concern about what workload of appellate court would be. OR is busiest in country. tracked carefully, \\ as of 1/15/91, only 10 guildelines cases on appeal. in last 4 months, 9 of those were consolidated and those were drug scheme case. overall, 4500 appeals. half were criminal. of those, 5% were guidelines issues. almost all involved other legal issues. concern about effect on local jails: confident that sentenced felons would decrease. cjc does monthly jail report. during 1st year, statewide, no signif. change in felons in jail. in metro area, decreases in number and% o sentences felons in jail. coos, jackson, marion, have new jails using them for sentenced felons, so it's leveled out.

SEN. SPRINGER: table 1, is washington cty underreported? on bar commttee looking at other stat requires for courts. no time to report. what is happening, can you assess not good data?

SEN. HAMBY: i want to ask this too, but in reverse.

CHAIR COHEN: coos/marion/jackson, kathleen talks about jail population not sentencing.

BOGAN: yes. was going to say that one serious problem is that reporting. lane, marion, jackson\\ are reporting 100% of cases. can compare our database to state court database. number of people reporting no cases gilliam, sherman. others we are worried about, like washington. statewide, we're getting about 70% of cases. research methodology fills in missing cases. may do away with forms altogether.

want a uniform judgment. way WA does its reporting. always wanted to do it this way. may be time for that now.

SEN. BROCKMAN: what are 100%

BOGAN: lane, marion, linn, klamath, jackson 100%.

SEN. BROCKMAN: look at my cties, and klamath is 2x deschutes. hard to believe.

ASHFORD: have some figures by cty that are best estimates of %. didn't bring it b/c i'm updating it. you may be right that deschutes is less than 100%

CHAIR COHEN: we need to know significance of non-reporting percentage.\\\

BOGAN: information is important, entered daily, about 750 a month. \\ we can track for changes related to race, gender, etx. state picture can be gotten from this. if cty not reporting, cannot ask specific questions. good reporters ctys can get disk with their own info. benefit for cties that report.

SEN. HAMBY: table 1 identifies local felons? no?

ASHFORD: table 1 enumeration of # sentencing reports. \\

CHAIR COHEN: have jail report?

BOGAN: no

CHAIR COHEN: now, nothing to do with jails. other thing.

SEN. HAMBY: knew wa cty not reporting, other with new jails have higher % of reporting.

CHAIR COHEN: means they're ontop of things.\\\

SEN. HILL: what is going to be done to get better reporting?

BOGAN: # of efforts underway. very impt to get this info. most useful, uniform judgment regulation. as now, cty jugments very different. don't get info we need. sugg. unofrom thing that would give what we need. just would get 5th copy of that. not have to do sentencing reports, separate document, lots of hassle.

SEN. HILL: use friendly?

BOGAN: more detailed, true, but userfriendly in WA state, they use it.

BOGAN: look at table 1 in black book, esp at preliminary 1st year report. list of lots of people. legislation, etc. more detailed report in march. preview here.

ASHFORD: guidelines provide means of monitoring practice statewide. must submit report forms, use for # of things. we review each for errors in calculation. optional change by courts. \\ #2 monitorin

SEN. SHOEMAKERmaker: tell court but not bound to crrect sentence?

ASHFORD: not now, but have looked at optional probation. \\ big disparities. WA is seeing the same thing--whites disproportionately benefit from options.

SEN. HILL: thanks

SEN. HAMBY: looked on basis of cty? diff by cty in use of options?

ASHFORD: just look at statewide totals, but will in annual report. look comparatively at g-line sentences and pre-glines sentences. \\ look at % that go to prison and length of stay. earned credit? \\ fig 5 in book. imprisonment rates by category of crime.

SEN. HILL: what's in the other category?

CHAIR COHEN: forgery, etc.

ASHFORD: length of stay has increased pst guidelines. property, also increase. figs 7 & 8. more particular crimes. also in book. assault, rape/sodomy, sex abuse. homicide, forcible sex crimes, robbery. figs 9 and 10. property crime categories. burglary, drug dist, deliv, manuf. forgery, theft. \\ get all these numbers later.

BOGAN: other are offenses against court.

ASHFORD: other aspects of procedure? impact of guidelines on demand for state resources. pie charts. in book, i think.

SEN. SPRINGER: mult cty--prosecution #s have gone through roof. in terms of expenditures,

CHAIR COHEN: how many pcs cases here? more serious?

ASHFORD: 38% of all cases under guidelines have been drug cases. 50/50 possession and distribution. 59% in mult cty are drug offenses.

SEN. SPRINGER: sweeps in old town. lots of \$ on these tiny dealers who get out soon anyway.

CHAIR COHEN: need to ask that for scheme/network issue. did this get in the way? \\

SEN. HILL: did we make distinction between possession and trafficking?

BOGAN: we thought we did. will have to be reworked, went down in appellate court.

SEN. SPRINGER: that will be tough one. lots of users are selling to support habit, how to makethis distinct.

CHAIR COHEN: 6 months minimum if you go, though.

SEN. SPRINGER: local time? how much served?

CHAIR COHEN: state instits, i think. need to explore.

SEN. HAMBY: cties with new jails have staff, and judges are imposing longer sentences b/c of space. has WA or minnesota made effort to control the bench in adhering to g-lines?

BOGAN: if judge sentences within g-lines, length is not appealable. if out of g-lines, appealable. worked in other states to have threat of appeal. use of local space operates dif. here. cties lobbied to use their jails. wanted to use them for longer than g-lines said. set mechanism that judge has to find space in individual sentence. coos, hood river, jackson have utilized that mechanism to impose longer sentences. trying to keep an eye on this.

SEN. BUNN: how is timing handled in city cases? maximum in state pen and then to city, or how works?

ASHFORD: def. sentenced to either.

SEN. BUNN: not combination?

BOGAN: judge would have to impose local sentence instead, and city would pay for it.

\\ \\

SEN. HILL: SEN. SPRINGER asked about dealers: is there asset determination? whether making lots of \$ or not? confiscation?

BOGAN: language referred to criteria of parole board. looked for that. appeals says that is not \\ \\ in law, law is still vague. bill from house is attempting to add that to statute.

SEN. HILL: information about cultural background. what about native ams and women?

ASHFORD: can't tell you now. there will be in final report.

BOGAN: lots of women drug offenders.

ASHFORD: impact of guidelines on prison beds. projected accommodation in biennium, due to prison plan. population has increased from 5500 to 6300 at present. little attributable to g-lines. temporary leave is eliminated. nobody on early release. part attributable to that. #2, parole returns have increased signif. in the last year. 148 in 1989, 1990 has had not less than 200 per month. fig. 15. 46% are returning from parole, 31% from probation. res new committed. g-line offenders at 18% of total pool of pop. 85% of sentenced felons. small % of people going into state system. longterm demand for beds? don't know how many. proj. 120 0, but new forecast. demand for beds will be function of things unrel to g-lines. growth in court volume, parole returns.

SEN. SHOEMAKER: fig 16, \\ \\ total admissions jumped. new convictions, looks like typical figs? something special about december?

ASHFORD: can't account for it. expect continued slight increase.

SEN. SHOEMAKER: new convictions increasing, lots more?

ASHFORD: beginning to see some of probation people coming in as revocations.

SEN. SHOEMAKER: some are guideline cases?

ASHFORD: yes.

ASHFORD: population stable for last 6-7 months.

SEN. SHOEMAKER: if that's true, any effect on population forecast by exec dept?\\

ASHFORD: primary parameters is projected increase in court convictions. increase by 8 1/2 % every year.

SEN. SHOEMAKER: when??

ASHFORD: filings are stable, no increase in new convictions.

SEN. SHOEMAKER: not be unduly alarmend?

MYERS: three bills in our legislation. statutory amends language approving add'l rules, etc.\\ \\ \\ more other bills. board adopted amends which change each area. sep. bill prving will be before. if feasible, matter of resources. \\ \\ \\ misdemeanor sentencing. two on felonies.

CHAIR COHEN: request--has g-lines board made any alternatives to show us what you projections are, not exec dept?///

MYERS: reductions in g-lines considered?

CHAIR COHEN: assuming not going to occur. costs 35 mill.

MYERS: board, no. staff, kind of.\\ \\ \\

CHAIR COHEN: have to look at budget. 550 bed shortfall, minimum.

SEN. HILL: how does reduction of\\ \\ fit into limited resources?\\ \\

MYERS: question of not making changes at all, if no \$.

SEN. HILL: if g-lines allocate beds, we are saying that we want some things enhanced within resources. concerned that it wouldn't be implemented at all. priority? does it make diff about \$?

MYERS: yes, except that by elimination temp leave, legis has elim way to fudge way to deal with capacity overruns. \\ \\ \\

SEN. HILL: need to see what we consider basic.

CHAIR COHEN: did you recommend\\ \\

MYERS; no. at the time that enhancement changes were adopted, view of cjc that unless figs in projected \$ changed, very diff to adopt any enhancements. ??? get this later. new \$ required to deal w/ guildeins without enhances. no \$, no enhances.

SEN. HILL: example. sex crimes increase. want to make those sentences longer, something else has to give. if legis makes policy, we have to choose something to go down?

MYERS: would try to give ou options which would provide offsetting reductions. assuming no change in \$. one option might not involve changing grid itself. return number is very big. if payoff area, that's it. increase capacity w/o changing grid. try to bring down return rate.

SEN. HILL: think it needs to be done anyway.

SEN. HAMBY: pearce recommended probation officers in the field, no high rate of return.

CHAIR COHEN: take them away, no return?

SEN. HILL: that's one way.

SB 616

BOGAN: reviews intended purpose of bill. reads sms? (exhibit XX) oversight by LC. adds language to codify current practice.

SB 619

judge ELLIS: reviews intended purpose of bill. uniform bail provisions for pre-trial release. cjc made subcommittee to make new standards. 3 narrow areas for change, bill addresses. #1, citations used to commence infraction violations. uniform form prescribed. bill would add provision for signature of person cited. #2 discourage violators from giving false name, committing forgery. #3 discourage alleged violators from appearing in court much later saying they didn't get ticket. stolen id, may not be able to sign. higher % of defends appear\\ also. have release officers around state. designated person. non-law enforcement officers do not have arrest powers. not felony, police don't have authority either. bill gives law enforcement authority to arrest, based on info and belief that violation occurred. also: # of counties under federal order directing sheriff to release to keep jail pop under cap. maybe released without date to appear in court. no basis for revocation or appearance. have to start again. would require sheriff's to do things.\\\\\\

CHAIR COHEN: requests ELLIS to go over possession issue. danger is that: policy fluctuates a lot. \\ big flow of mexican heroin. lots of people selling it. illegal aliens. INS puts hold, no pretrial release. take up beds, \$ for courts. interpreter, etc. charges as scheme or network? sometimes. don't see big dealers, b/c sentences harder in federal system. \\ tends to be smaller cases in state courts.

SEN. SHOEMAKER: back to arrest. what kinds of offenses/violations do you expect?

ELLIS: monitoring (electronics, etc.) urinalysis, new crime charges,

SEN. SHOEMAKER: b/c law permits officer to arrest without warrant if probable cause.

ELLIS: yes.

SEN. SHOEMAKER: this broadens it to trivial crime?

ELLIS: conceivably. other way, really.

SEN. SHOEMAKER: purpose is to get at those who....

ELLIS: problems of release officer who has no arrest authority.

CHAIR COHEN: only applicable to pretrial

ELLIS: to alert that area of concern: requiring people to obey law may be unconstitutional\\

SB 620

BOGAN: reviews intended purpose of bill. drafting error, last session. submits clipping (Exhibit XX) adds permission, retroactivity. not increase in punishment. impt to courts.

wasmann: with fred aber, polk cty. proposes amends. submits and summarizes. \\

aber, DA polk cty. support SB 620. and amends. important to have retroactivity paragraph. without, judges may feel unclear, split of authority. \\ inadvertent sentences. cost a lot. ways around, but still \$\$\$.

ross shepard, trial lawyers ass'n: re: 620, reviews wold case. ex post facto application of law. \\

SEN. HILL: authority for views?

shepard: just saw them today. re: 619--we support first part, signature part. second 2 parts, come concerns. allows for peace officer to arrest for alleged violation. \\ allows arrest for no new crime, just condition of agreements. 3rd part, \\ sheriff part. federal release. if not appear, bench warrant. no big deal--perfunctory. if agreement between sheriff and defendant, need contempt of sheriff part.

paul snider, AOC: SB 619, seciton 1. concerned that uniform citation changed, with 90 day effective date, lots of useless tickets. lots of \$\$\$ take this into consideration.

phase-in.

CHAIR COHEN: Adjourns hearing at 3:24 p.m.