

Approved February 25, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:05 a.m. ~~xxxx~~ on February 4, 1991 in room 514-S of the Capitol.

All members were present except: Senators Feleciano and Gaines who were excused.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Ben Coates, Kansas Sentencing Commission
Sandra Lassiter, Concerned Citizens for Equal Justice
Lontena Gentry, Concerned Citizens for Equal Justice

The Chairman called the meeting to order by recognizing Ben Coates, Executive Director of the Kansas Sentencing Commission, to continue his briefing of the KSC recommendations.

Mr. Coates reviewed for the Committee the specific recommendations of the Kansas Sentencing Commission. (see Attachment 1 of minutes dated February 1, 1991)

The Chairman opened the public hearing for proponents of the recommendations of the Kansas Sentencing Commission.

Sandra Lassiter, Concerned Citizens for Equal Justice, testified in general support of the Sentencing Commission recommendations, but expressed concern with selected areas. (ATTACHMENT 1)

Lontena Gentry, Chairperson of the Concerned Citizens for Equal Justice, provided written testimony to the committee in support of determinant sentencing as proposed by the Kansas Sentencing Commission and expressed concern with selected areas. (ATTACHMENT 2)

The Chairman requested that all conferees who addressed the committee submit specific recommendations in writing to the committee when they address the actual bill being drafted on the KSC recommendations.

The hearing was continued to Tuesday, February 5, 1991 at 10:05 a.m. in Room 514-S. The meeting was adjourned.

We, the Concerned Citizens, have been in place since the inception of the Sentence Commission as a positive force for change. We appreciate the intent of the commission to establish guidelines for a fair sentencing system.

We realize many dollars have been spent and hours invested in putting this manual together, but, we question the end product.

Also, of equal concern is the composition of this commission which is reflective of the racial bias which permeates throughout our system.

Excuse my redundancy, but, I would be remiss not to mention that when this commission was organized, the Concerned Citizens lobbied for 5 of the 15 panel members to be persons of color.

Briefly looking at the categories for appointees, it is glaringly evident that persons of color could have been selected.

1. The Attorney General Designee
2. Public Defender
3. Secretary of Corrections Designee
4. Chairperson of Kansas Parole Board
(a red tag goes up on this one)
(strange manipulation)
5. Four members of general public, one of whom shall be a member of a racial minority group.

We appreciate those of the intelligentsia who are qualified to serve on this panel, but, we know there are people of color who are equally qualified.

The ball is in your court representatives. Here is another opportunity to play fair.

Concerned Citizen
Sandra Lassiter

Senate Judiciary Committee
Attachment 1
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1-4/1

February 3, 1991

TO: Members of the Judiciary Committee

When we first began to examine the length of sentences African-Americans received verses those received by Whites, we became aware of the disproportionately large percentage of African-Americans in maximum security facilities in Kansas. What was most apparent to us was African-Americans received longer sentences for like or similar crimes than Whites. All apparently due to the power of the use of discretion by the Judge. So when we became aware of determinant sentencing, we thought what a better way to make sure that those who are convicted of crimes will do the same amount of time. Maximum security facilities will no longer be filled with a disproportionate number of African-Americans. All who are convicted of committing crimes will be given the same sentence for like or similar crimes. For this reason, we continue to recommend the elimination of discretionary power by the judge.

In order to keep determinant sentencing fair and equal for all, there has to be more structure built into the system to prevent the disparity from moving to the District Attorney's office, or on down to the arresting process. Studies in other States indicate that plea bargaining increases as a result of determinant sentencing. Primarily, Whites tend to be plea bargained down to a lesser charge and given lesser sentences than others. We must ensure this does not happen in Kansas. However, in Shawnee County, we have reason to believe, the misuse of discretionary power in charging criminals ^{already} is evident. Because a large number of cases in Kansas are plea bargained out before they ever get to court, we are recommending corresponding guidelines be developed for prosecuting attorneys to remove discretionary practices in charging those who commit crimes.

We believe that once a person is convicted of a crime and sent to prison, that while there, he or she must be rehabilitated and/or educated to prepare for life outside of prison. We understand that without rehabilitation, prisoners will return to society the same as they went in. If a person has not had an opportunity to change behavior or to learn a new skill which might guarantee success in staying out of prison, then the recidivism rate will certainly be high. A high recidivism rate in turn

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2-1/2

will increase the prison population, and force the building of new prison facilities to house the inmates. We do not endorse the building of new prisons to prevent overcrowding; but we do recommend rehabilitation and/or education to prevent a revolving door of inmates.

If determinant sentencing is adopted, we recommend retroactive review of those presently incarcerated to bring those inmates in line with the new sentences. Some inmates sentenced under the current system may have suffered an injustice in the pursuit of justice, and the only way to make it right is by careful and systematic review of past practices. We also recommend that prior to implementation, the Sentencing Commission meet with more African-Americans who are knowledgeable of the technical aspects of determinant sentencing to make sure there are no loop holes which would adversely affect African-American who are charged with and convicted of committing crimes.

We understand the Sentencing Commission will stay in place if determinant sentencing is adopted for the sole purpose of policing sentencing practices of Judges across Kansas. If this is so, we would like a more equal representation of non Whites on the Commission.

We encourage your continued efforts in seeking to improve our current judicial system for the betterment of all Kansans.

Lontena Gentry, Chairperson
Concerned Citizens for Equal Justice
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