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November 15, 2012

Governor's Public Safety Committee

Subject: A Few Thoughts on the Proposals from the Corrections Group

Colleagues,

I must again first apologize for missing the very end of the meeting in Bend when the concepts from the Corrections group were briefly presented to the whole group. As I indicated, I had to return to Portland right by 3:30 pm and missed the last 30 minutes of the Bend meeting. For that reason I was not fully aware of the breadth and scope of some of the proposals coming out of the corrections group until later on. It appears we will not have a chance to fully discuss them as a full Commission until the December 6th meeting (as I understand the current plan). I wanted to pass on a couple of observations to the whole group, since I am a member of the sentencing group and not the corrections group.

It appears that many of the corrections group proposals are, in my view, actually sentencing concepts first. Specifically, I am referring to increasing transitional leave, increasing earned time, changing AIP, increasing 1145 to longer sentences, prohibiting technical violations and the two proposals to weaken or eliminate automatic waivers into adult court for Measure 11 crimes. Virtually all of these proposals are first decided at sentencing and, I believe, should actually be in front of our group as well.

Leaving that aside, I wanted to offer one observation about many of these proposals. During the past 22 years, we have worked very hard to repair a broken sentencing system from the 1980's in which there was no truth in sentencing. In my view many of these proposals actually allow for sentences to be reduced at the "back end" and most often by the Department of Corrections (DOC). We have tried this before and that experience taught us that if DOC (and the parole board as their partner) is allowed flexibility to control the length of sentences at the back end, then at some point it will

turn into a "population control device" and nothing more. For instance, in the 1980's we had what is broadly described as indeterminate sentencing in which the Parole Board in coordination with the DOC was allowed to control when an inmate was fit for release. This philosophy was based upon the idea that the people working in prisons and on the Parole Board would be in the best position to determine when an inmate was ready for release.

In theory, this has some logic to it but ultimately it was a complete failure and I would like to offer my brief observations as to why. First, as a former member of DOC, I learned that as well intentioned and talented as many of the people in that system are, they are totally removed from the facts of the crime that put the defendant in prison and, even more important, the victims of those crimes and their need for justice. Second, when the financial pressures increased at the state level in the 1980's this "back door" approach to controlling sentences allowed the leaders of the state to control the size of the prison population through earlier and earlier releases. It worked perfectly for the state budget and for state leadership and absolutely horribly for victims and the general public.

Well, after many years and much hard work we now have truth in sentencing in Oregon. These proposals are nothing more, in my opinion, than the first assault on truth in sentencing in Oregon. It is understandable they would be enticing to those who want to shrink sentences and for those who want to control prison costs. But, I would submit they are a long-term dead end.

It is this historical experience that will cause all of us who have worked through this before on the public safety side to vigorously and steadfastly oppose increased earned time, increased transitional leave, changing AIP, increasing 1145, etc.

Thank you for considering my comments.

Sincerely,



John S. Foote