



TO: House and Senate Committees on Judiciary and House Committee on Corrections and Institutions

FROM: Hon. Thomas A. Zonay, Chair
Commission on Sentencing Disparities and Criminal Code Reclassification
("Sentencing Commission")

RE: Sentencing Commission Report pursuant to Act No. 148, Sec 19, *An Act Relating to Justice Reinvestment*

DATE: February 17, 2021

Executive Summary

The Vermont Sentencing Commission is not, at this time, able to make any recommendations as directed in the Justice Reinvestment II bill given the absence of the necessary foundational recommendations from the Stakeholder group in its Report submitted December 1, 2020.

Findings

The Justice Reinvestment II bill enacted as Act 148 (2020), Sec. 19, sets forth, *inter alia*, that the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, along with other stakeholders, (collectively referred to herein as "RDAP") was to evaluate the sufficiency of data systems and collection within Vermont and what staffing or resources are needed to support more robust reporting. The bill further directed the group to: (1) Perform an initial analysis of sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities and make any related proposals for legislative action, including recommendations for further study; and (2) Jointly report their findings and any associated recommendations to the Joint Legislative Justice Oversight Committee and the Vermont Sentencing Commission on or before December 1, 2020.

RDAP submitted its Report to the Sentencing Commission. In addition to the submission of the Report, the Chair, and other members of the group, were invited to speak with the Sentencing Commission at its meeting on January 25, 2021.

During the meeting with the Commission, the RDAP Chair advised that the existing collection of data within Vermont's criminal justice and law enforcement agencies did not lend itself to the group being able to perform any analysis of sentencing patterns as set forth in the bill, further noting RDAP's view that the time allotted under the bill was insufficient to allow RDAP the necessary time to complete all components of its work. The Chair explained that RDAP's Report focused on data collection, and made numerous recommendations on how to improve the data ecosystem to further enable RDAP to obtain the necessary data, analyze it, and thereafter make the recommendations requested in the bill. It was also the consensus of the two groups that given the subject matter overlap, as well as the fact that there are members of RDAP who also serve on the Sentencing Commission, that the two groups should maintain open communication to be able to assist each in their work moving forward.

In light of the focus of the RDAP Report on data collection, and the absence of findings and recommendations relating to an initial analysis of sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities, the Sentencing Commission is without the necessary information to make any recommendation regarding proposed changes to Vermont's sentencing structure, nor to issue nonbinding guidance for offenses for which there are racial and geographic disparities in sentencing. At such time as RDAP obtains the data necessary to perform its analysis, and provides the foundational recommendations to the Commission, as contemplated in the bill, the Commission will be in a position to consider the issues identified in the bill and make its recommendation.

Conclusion

The Commission intends to continue its work on matters falling within its charge, as well as to work collaboratively with RDAP, as it moves forward. It will further make the recommendations requested under the bill at such time as it receives the RDAP recommendations contemplated under the bill.