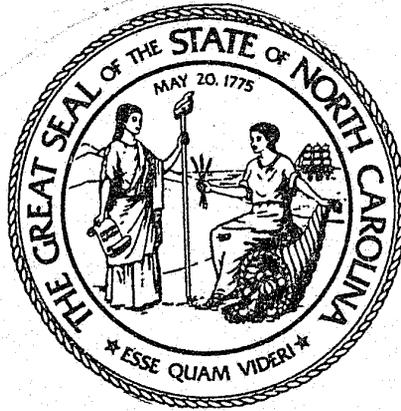


North Carolina -
COMMISSION ON SENTENCING,
CRIMINAL PUNISHMENT,
AND
REHABILITATION



INTERIM REPORT

February 1, 1975

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COMMISSION ON
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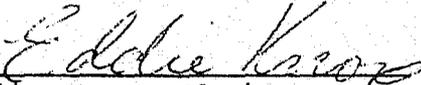
Eddie Knox, Chairman
1416 Johnston Building
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February 1, 1975

Pursuant to Senate Joint Resolution 20 (1975 Session),
the Interim Report summarizing the legislative proposals and
recommendations of the Commission on Sentencing, Criminal
Punishment and Rehabilitation (Authorized by Senate Joint
Resolution 1268, adopted April 13, 1974) is hereby submitted
to the following:

The Honorable James E. Holshouser, Jr.
The Honorable James B. Hunt, Jr.
The Honorable John T. Henley
The Honorable James C. Green
Members of the 1975 General Assembly

Respectfully submitted,


Eddie Knox, Chairman

CONTENTS

I.	INTRODUCTION	1
II.	CHANGES IN RELEASING POLICIES	5
	A. Mandatory Parole	5
	B. Parole at One-Third	5
	C. Credit for Time on Parole	6
	D. Voluntary Return of Escapees	6
	E. Conditional Release for Committed Youthful Offenders	7
	F. Work Release	8
	G. Contract for Services	8
III.	CHANGES IN SENTENCING POLICIES	10
	A. Split-Sentencing	10
	B. Classification of Felonies	10
	C. Escape Violations	11
	D. Diversion	11
IV.	CHANGES IN JUVENILE POLICIES	13
	A. Community Evaluation Committee	13
	B. Prevent Commitment of Non-Criminal (Status) Offenders	14
	C. Training for Juvenile Judges	14
V.	OTHER RECOMMENDED POLICY CHANGES	16
	A. Sentencing	16
	B. Confinement Alternatives	16
	C. Higher Pay and Better Training for Correctional Officers	17
	D. Relieve Idleness Within the Prisons	18
	E. Provide Continuing Review for Sentencing Statutes	19

I. INTRODUCTION

In keeping with the stated policy of emphasizing the development of specific legislation in lieu of a detailed formal report, the Commission on Sentencing, Criminal Punishment and Rehabilitation hereby submits this summary of Commission findings and legislative recommendations.

Each of the legislative recommendations summarized in this report has been drafted and will be introduced in the 1975 Session of the General Assembly. The purpose of this report is to provide a brief overview of the Commission approach to the multi-faceted issue of prison overcrowding and the rationale used by the Commission in arriving at these specific recommendations.

Following an in-depth study and analysis of recent trends in North Carolina's prison population, the Commission found two primary causes for the current overcrowding. The dramatic one-year increase of 18% following years of relative stability can be directly attributed to: (1) a reduction in the parole and conditional release approvals; and (2) a gradual but steady increase in the percent of felony violators in the prison population.

In evaluating the first of these factors, the Commission has identified several contributing variables which led to the significant reduction in paroles and conditional release approvals. The absence in 1973 of two Parole Commission members for several months backlogged the workload and delayed needed action on many items. New responsibilities were also added to the Parole Commission during this period which again resulted in an increased work backlog. Finally, a natural cautiousness on the part of the new Parole Commissioners seems to have resulted in a lower approval rate in those cases that were reviewed.

The basic problem created by the increase in felony offenders is the resultant longer average sentence for the prison population. In researching the authorized length of sentence provided by the criminal statutes, it was discovered that North Carolina ranks very high in its severity of sanctions for major felonies. Following the recommendations of the American Bar Association, the National Council on Criminal Justice Standards and Goals, the American Association of Correctional Officers and the National Council on Crime and Delinquency, this Commission has developed several proposed

pieces of legislation that are designed to bring North Carolina's active prison sentences more in line with the rehabilitation oriented philosophy which has long been recognized by our Department of Correction leadership.

The Commission on Sentencing, Criminal Punishment and Rehabilitation recognizes the fact that while some of the proposals contained in this legislative package are only minor changes in the current system designed to streamline and improve internal efficiency, others included here represent more basic changes in the criminal justice system as well as the corrections programs of this State. This Commission feels that these proposals, though innovative in their approach are essential in view of the very explosive situation that has pervaded this State's prison system over the past several months. We would also point out that overcrowding has often been cited as a primary causal factor in prison riots and violence all across the country. To ignore this problem any longer would, in the opinion of the Commission, be inexcusable.

With those facts in mind, the Commission has proceeded to address the problem from the position that overcrowding can be relieved either by building new prisons or by reducing

the current prison population. We recognized very early in our deliberations that the Department of Correction fully intended to address the former approach; the Commission on Sentencing, therefore, undertook to explore in detail all alternative possibilities.

The 1975 General Assembly faces the unenviable task of not only establishing State policy in regard to the very serious problem of prison overcrowding, but must do so from the perspective of balancing those demands with the seemingly unlimited demands placed upon it from all other State agencies. It must, furthermore, accomplish this balance within the very restrictive confines of the projected annual revenue from an economic base experiencing the full effects of a nationwide recession.

Without further elaboration, the following summary of Commission findings and legislative proposals are offered as an alternative to massive expansion in this State's prison facilities:

II. CHANGES IN RELEASING POLICIES

A. MANDATORY PAROLE

Commission Statement of Findings: Numerous serious felony offenders are being released each year from our prison facilities with no supervision. Generally these are the most hardened criminal element in our prison system and a group which is most in need of close supervision during the first several months of their return to society.

Legislative Recommendation: To require a minimum of 90 days parole supervision prior to final discharge for all felony offenders by enacting a mandatory parole provision.

B. PAROLE AT ONE-THIRD

Commission Statement of Findings: It was brought to the attention of this Commission and confirmed by the Chairman of the Parole Commission that no inmate serving a sentence of 12 months or less was being reviewed for parole.

Legislative Recommendation: That legislation be enacted that would automatically parole all misdemeanor violators at one-third of their sentence unless a finding was made in writing by the Parole Commission that would provide otherwise.

C. CREDIT FOR TIME ON PAROLE

Commission Statement of Findings: The definitions and distinctions between conditional release for regular offenders and committed youthful offenders, and parole for determinate and indeterminate sentences were found to be confusing at best. There exists under current statutory provisions a situation whereby certain inmates, in the opinion of this Commission, are being denied equal protection under the law. Additionally, we find questionable legal authority to support the current releasing policies for committed youthful offenders.

Legislative Recommendation: A bill to make the conditional release and parole provisions uniform in their application and to provide necessary legal authority to continue current releasing policies in regard to committed youthful offenders.

D. VOLUNTARY RETURN OF ESCAPEES

Commission Statement of Findings: During the Commission's deliberations, concern was expressed over the excessive number of very minor escape violations that were being handled by the courts. Many of these, it was pointed out were simply cases where work release inmates were late returning to their

units following work. It was felt that administrative sanctions should be used in handling these cases rather than imposing additional sentences.

Legislative Recommendation: A bill to allow for administrative sanctions only for those inmates who are late returning from work release or home leave, and who voluntarily return within 48 hours to their assigned unit.

E. CONDITIONAL RELEASE FOR COMMITTED YOUTHFUL OFFENDERS

Commission Statement of Findings: The process for release of Committed Youthful Offenders was found to be unnecessarily delayed by the requirement that all such releases be approved by the Parole Commission. Information supplied by the Parole Commission indicates that nearly all recommendations from the Division of Prisons concerning Committed Youthful Offenders are routinely approved for conditional release.

Legislative Recommendation: Amend G. S. 148-49.8 to allow the Division of Prisons to place any Committed Youthful Offender serving a sentence of five years or less directly on conditional release, without formal approval by the Parole Commission.

F. WORK RELEASE

Commission Statement of Findings: Unnecessary delays in the processing of work release requests are seriously jeopardizing this most promising of all current rehabilitation devices. Numerous cases have come to our attention in which prospective employers who were willing to hire work release inmates were unable to hold jobs open indefinitely while the application was processed by the Department Work Release Section and then by the Parole Commission.

Legislative Recommendation: The work release approval mechanisms be streamlined by granting the Division of Adult Corrections the authority to grant work release privileges to any inmate serving a sentence of five years or less.

G. CONTRACT FOR SERVICES

Commission Statement of Findings: The current provisions in G. S. 148-22 governing the authority of the Division of Adult Corrections to contract with other agencies either public or private to provide housing, sustenance and treatment services outside the confines of the prison system were found to be insufficiently specific. Many private treatment agencies,

alcoholic rehabilitation centers, for example, could be utilized by the Department of Correction for selected inmates if this bill were passed.

Legislative Recommendation: A simple amendment to G. S. 148-22(b) which specifically gives this authority for the purpose of providing needed rehabilitative or training services.

III. CHANGES IN SENTENCING POLICIES

A. SPLIT-SENTENCING

Commission Statement of Findings: An informal survey of Superior Court judges revealed an overwhelming approval of the concept of split-sentencing. Many times, a preferred method of sentencing for certain offenders would be one that would allow for the imposition of a relatively severe prison sentence that could be suspended on condition that the defendant serve a short active sentence followed by a period of probation.

Legislative Recommendation: Enactment of a proposed split-sentencing bill.

B. CLASSIFICATION OF FELONIES

Commission Statement of Findings: In reviewing North Carolina's criminal sanctions in Chapter 14 of the General Statutes, the Commission found excessively long prison sentences, wide judicial discretion, antiquated laws, and a general inconsistency between the many authorized sanctions provided in North Carolina criminal law.

Legislative Recommendation: Enactment of a felony classification bill to limit the number of authorized

sanctions and to incorporate a general sentencing philosophy into the Chapter 14 provisions of North Carolina law.

C. ESCAPE VIOLATIONS

Commission Statement of Findings: G. S. 148-45 relating to sentences for escapees provides that where the judge fails to specify otherwise the sentence shall run consecutively. In all cases other than escapes where more than one sentence is involved if the judge fails to specify otherwise the sentence is presumed to run concurrently. This has resulted in isolated cases of relatively minor offenders ending up with excessively long sentences as a result of numerous escape violations.

Legislative Recommendation: A bill to amend G. S. 148-45 to make the escape provision concerning concurrent or consecutive sentences conform to the normal rule of the court on this matter. This would only apply in those cases where the judge failed to specify in his ruling.

D. DIVERSION

Commission Statement of Findings: Much of the national research reviewed by this Commission has strongly urged the expanded utilization of various types of diversion programs.

After considerable discussion, the Commission determined that a statewide policy allowing for pre-trial diversion oriented toward the youthful and the first offender would greatly enhance the total rehabilitative efforts in the criminal justice field.

Legislative Recommendations: A pre-trial diversion bill granting certain diversion authority to the local District Attorney's offices across the State.

IV. CHANGES IN JUVENILE POLICIES

A. COMMUNITY EVALUATION COMMITTEE

Commission Statement of Findings: One of the most glaring weaknesses found by this Commission in the area of juvenile corrections was the lack of information on program availability. As have many other such studies, we found much fragmentation between and among the various child serving agencies of the State. This problem is particularly acute in the judicial process which commits truant and undisciplined children to training schools.

Legislative Recommendation: A bill to authorize each Chief District Court Judge to appoint a committee of professionals from the various child serving agencies of a county or judicial district to review the case history of juveniles awaiting disposition and in danger of a training school commitment. The purpose being an attempt to devise alternative recommendations to the juvenile court judge and reduce training school commitments especially for the non-criminal offenders who now make up close to 50% of our training school population.

B. PREVENT COMMITMENT OF NON-CRIMINAL (STATUS) OFFENDERS

Commission Statement of Findings: For years nearly all leading authorities in the field of juvenile corrections have recognized the need to eliminate the non-criminal offender from the juvenile training schools. Twenty-two states have recognized this problem by creating special categories of laws for dealing with the non-criminal offenders. These special laws, while reducing the number of non-criminal offenders in training schools, have not yet been fully successful as all states still allow training school commitment for some non-criminal offenders.

Legislative Recommendation: A bill which would become effective January 1, 1977 that would prevent the commitment of any juvenile for a non-criminal offense.

C. TRAINING FOR JUVENILE JUDGES

Commission Statement of Findings: One of the few remaining recommendations of the N. C. Bar Association's Penal Reform Committee Report entitled "As the Twig is Bent" which has not yet been adopted is the specialization of juvenile court judges. It is believed by this Commission that the understanding and expertise of the juvenile court judge may

well be the most influential single element in determining the future course of many young lives. Few areas of the law are undergoing more rapid change than in respect to the rights of children.

Legislative Recommendation: A bill to provide special training seminars for judges wishing to specialize in juvenile court matters.

V. OTHER RECOMMENDED POLICY CHANGES

In addition to the specific legislation outlined by this report, the Commission on Sentencing, Criminal Punishment and Rehabilitation makes the following additional recommendations:

A. SENTENCING

While some of the legislative remedies proposed by the Sentencing Commission will, if adopted, have considerable impact on the overcrowded conditions in North Carolina's prisons, much could be accomplished by the adoption of the following recommendation on sentencing policy:

The North Carolina judiciary, in exercising its considerable discretion in the sentencing of individual offenders, should: "Impose the minimum amount of custody or confinement which is consistent with the protection of the public, the gravity of the offense and the rehabilitative needs of the defendant." (ABA Standards Relating to Sentencing Alternatives and Procedures)

B. CONFINEMENT ALTERNATIVES

The Commission on Sentencing, recognizing the clear need to systematize at the State level the orderly development of community alternatives to total confinement recommends that:

The various State agencies of the Criminal Justice System working in conjunction with local law enforcement personnel and concerned community leaders

throughout the State develop and implement a comprehensive program of community alternatives to insure that: "(1) no individual who does not absolutely require institutionalization for the protection of others is confined; and (2) no individual should be subjected to more supervision or control than he requires." (National Advisory Commission on Criminal Justice Standards and Goals.)

C. HIGHER PAY AND BETTER TRAINING FOR CORRECTIONAL OFFICERS

One of the perennial problems within the Department of Correction has been the extremely low salaries available to corrections personnel. Though some progress has been made in recent years in this area, we find that training standards and salary levels are still grossly inadequate.

The Commission on Sentencing, Criminal Punishment and Rehabilitation, therefore, recommends that the Department of Correction institute as a high priority project the expansion of its personnel training program and that the General Assembly recognize the need for upgrading the correctional officers capabilities and expertise by increasing its appropriations for salaries. We recommend further that these increases should, over time, be aimed at bringing the average salary of correctional officers more nearly in line with other law enforcement officers within State Government.

D. RELIEVE IDLENESS WITHIN THE PRISONS

Simple warehousing of inmates within the prison system violates the basic rehabilitative orientation which has traditionally characterized the official philosophy of corrections in North Carolina. With the recent increase in prison population and the new state policy abolishing inmate labor on roads, the problem of idleness has become increasingly critical.

To help relieve this potentially explosive situation, this Commission recommends that the Department of Correction prepare and present to the General Assembly a comprehensive program that as a minimum would:

1. Expand the prison industries within the system.
2. Place a greater emphasis on individual and group counselling especially among the youthful offender population.
3. Where practical to expand the planned recreational programs within the units to reduce idle cell time.
4. Continue to explore and implement vocational training and basic education programs in coordination with this State's community college system.
5. Finally, we recommend that the General Assembly articulate a positive State policy that would maximize the utilization of work release and paroled inmates within the various agencies and departments of State Government.

E. PROVIDE CONTINUING REVIEW FOR SENTENCING STATUTES

In the area of sentencing reform, this Commission has become particularly concerned with the many discrepancies and inconsistencies in the sentencing provisions of Chapter 14 of the North Carolina General Statutes. We, therefore, recommend that a standing committee of both houses of the General Assembly be designated to review all legislation affecting or tending to affect the prison population of this State, to insure that the sentencing provisions are not inconsistent with other similar statutes and that they are in accordance with the basic sentencing policies of this State.

With the submission of this report and the accompanying legislation, a major portion of the Commission's work is complete. There remains, however, one major issue on which we are continuing to concentrate our efforts - the capital construction needs for North Carolina's prison system. While some of our recommendations will undoubtedly have some effect, it is not yet clear how much, if any, new construction will be needed.

The Commission has scheduled several meetings and is involving the Department of Correction staff personnel as well as other experts in the field in a very careful analysis of

this situation. We believe that these additional meetings will be helpful and we will hopefully be issuing a policy statement on capital construction on or before our final reporting deadline.

END

7. 10/10/1911