

JOINT PERFORMANCE AND REVIEW COMMITTEE

**JULY 11, 2013
MINUTES**

The Joint Performance Review Committee met Thursday, July 11 at 10:00 a.m. in Room 171, State Capitol, Little Rock, Arkansas.

Committee members present were Senator Jane English, Senate Co-Chair, Representative Terry Rice, House Co-Chair; Senators Jimmy Hickey, Bryan King, David Sanders, Larry Teague, and David Wyatt; also Representatives Randy Alexander, Bob Ballinger, Harold Copenhaver, Jody Dickinson, Justin Harris, Debra Hobbs, Mark Lowery, James Ratliff, Nate Steel, Brent Talley, and Tommy Wren.

Other members present were Senators Linda Chesterfield, Jonathan Dismang, Stephanie Flowers, Jeremy Hutchinson, and Eddie Joe Williams; also Representatives Nate Bell, John Burris, Jim Dotson, Charlotte Douglas, Charlene Fite, Jeremy Gillam, Kim Hammer, Mary "Prissy" Hickerson, John Hutchison, Allen Kerr, Sheila Lampkin, Andrea Lea, Frederick Love, Walls McCrary, Mark McElroy, James McLean, Micah Neal, Betty Overbey, Sue Scott, Mary Lou Slinkard, Henry "Hank" Wilkins, and Marshall Wright.

Opening Remarks – Senator Jane English and Representative Terry Rice, JPR Co-Chairs

Senator English gave an overview of the duties and responsibilities of the Joint Performance Review Committee (JPR). The Committee has the authority to perform reviews of government programs and agencies, conduct investigations into specific problem areas of the administration of state government, and conduct hearings. Senator English spoke about the importance of the role of government in public safety.

Representative Rice described the purpose of the meeting as information gathering, plus a review of procedures used by the Department of Community Correction (DCC) in its supervisory role over probation and parole offenders.

Senator English introduced Prosecuting Attorneys Ken Casady, 22nd Judicial District, Marc McCune, 21st Judicial District, Cody Hiland, 20th Judicial District, and Boyce Hamlett, Arkansas State Council for Interstate Commission of Adult Offenders.

Review and Discussion of the State's Current Parole Procedures and System

Senator English recognized Ken Casady, Prosecuting Attorney, for comments. Mr. Casady gave an overview of the parole process (Handout 1). He described parole eligibility for offenders sent to the Arkansas Department of Correction (ADC). With the exception of the death sentence and life without parole, parole eligibility is

based on felony seriousness levels established by the Arkansas Sentencing Commission. He said provisions of Act 570 of 2011 allow some parolees to further reduce their sentence and gain more "good time" while on parole. If a person's parole is revoked and they are returned to ADC, the period of time served generally ranges from six months to one year. Mr. Casady believes that ADC is pressured to save space and that DCC is pressured to slow the revocation of parolees.

Mark McCune, Crawford County Prosecuting Attorney, was recognized for comments. Mr. McCune discussed the communication problems that exist between prosecutors and parole officers. Violations by parolees are not communicated to prosecutors. Prosecutors are not notified that parolees are not reporting, they don't receive drug test results, nor arrests which occur in other jurisdiction. Mr. McCune believes the parole procedures should be simplified.

Boyce Hamlet, Arkansas State Council for Interstate Commission of Adult Offenders, was recognized for comments. Mr. Hamlet said the Darrell Dennis case is not an isolated incident. He described numerous cases of parole violators with a history of major parole violations who have committed serious crimes. He believes sentencing guidelines for offenders should reflect a more accurate length of time served.

Cody Hiland, Prosecuting Attorney, was recognized for comments. Mr. Hiland discussed what he believes is a morale problem in law enforcement personnel and prosecutors. He spoke about repeat offenders who scam the parole system and continue to commit crimes. He believes recidivism is a major problem.

There was discussion between legislators and prosecutors concerning the Technical Violators Program (TVP) and the types of offenses or violations which would assign a person to the program. Mr. McCune responded that the TVP program is a 60-day program. He said that when a parolee has repeated violations of their parole or committed a crime while on parole, that person can be committed to the TVP program.

Discussion of the Recent Homicide Case in Pulaski County Concerning Parolee Darrell Dennis

Senator English asked that Bureau of Legislative Research committee staff read the timeline of offenses committed by Darrell Dennis. Senator English advised committee members that the information to be read has no bearing on the guilt or innocence of Darrell Dennis, but is an example of the types of timelines of concern that exist in parole procedures.

Discussion of Authorizing the Co-Chairs of the JPR Committee to Enter Into an Order Providing for the Production of Certain Records Relating to the Darrell Dennis Matter

Senator English explained to legislators that some information relevant to the Darrell Dennis case has been excluded from the documents provided by DCC to the Committee. She recognized Matthew Miller, Assistant Director, Bureau of Legislative Research, who reviewed the process the JPR Committee will use to request that DCC

release the documents. Mr. Miller referenced letters sent to DCC from the JPR Committee requesting release of all records pertaining to the Darrell Dennis matter. Mr. Miller reviewed the Summary of Proposed Order (Handout 2). He told the Committee the Code outlines the court order that JPR can enter into with DCC to provide for the release of confidential information. He explained that DCC has declined to provide all of the records under Arkansas Code § 12-27-125(b)(20) because DCC views it as a violation for DCC to release supervision records except as provided by DCC administrative rules or by court order. Committee members discussed the proposed order. Following the discussion, a motion was made by Senator Sanders and seconded by Representative Harris to authorize the JPR Co-Chairs to enter into a court order requesting DCC release confidential information in the Darrell Dennis matter. Senate committee members adopted the motion unanimously. House committee members adopted the motion unanimously. Senator English set a meeting date of Thursday, August 1, 2013 at 9:30 a.m. in Room A, MAC Building to be included in the court order.

Comments by Department of Community Correction Staff

DCC Interim Director, Sheila Sharp was recognized for comments. Ms. Sharp introduced members of the Arkansas Board of Corrections - Benny Magness Board Chairman, Dr. Mary Parker Vice-Chairperson, members Buddy Chadick, and Bobby Glover. Arkansas Department of Correction (ADC) Director Ray Hobbs was also in attendance.

Ms. Sharp discussed a primary shift in the policy direction of DCC with the passage of Act 570 of 2011. She said one of the directives of Act 570 is the use of evidence-based practices when working with offenders. Risk Assessments for offenders are now based on a ranking of low, medium, or high risk. A Matrix, established to evaluate offenders, details sanctions for their behaviors. Additionally, every staff member's role within DCC has changed. Parole officers have the task of ensuring that the 55,000 offenders on parole and probation assigned to DCC are adequately supervised and enrolled in programs within the community. Offenders are placed into community assistance programs based on risk assessments and a continuum of evidence-based sanctions for non-compliance and conditions of their probation or parole. She said that the traditional Parole and Probation Officers have taken on the additional role of counselor and are trained to police the offenders as well as motivate them to become law-abiding citizens. Ms. Sharp believes this is the major goal of Act 570.

Ms. Sharp discussed her initial assessment of DCC following her recent appointment as Interim Director. She found an unacceptably high rate of turn-over and vacancies in the Parole and Probation officer positions. The Little Rock area has experienced the highest rate of turn-over in the previous twelve months, with a 50% turn-over. Ms. Sharp advised legislators that new policy changes have been implemented by the Board of Corrections in recent weeks.

Mr. Benny Magness was asked if a parolee absconds one time, is it a felony? Mr. Magness stated that a recent board policy change has established a felony charge

when an offender absconds twice or more, at which time a warrant is issued. Mr. Magness commented on another recent board policy, which will hold offenders in county jails and not allow their release when an Act 3 request is under consideration.

Dan Roberts, Deputy Director, Parole and Probation Division, DCC, was recognized for comments. Mr. Roberts told legislators that the main priority of DCC is public safety. He spoke about the shortage of parole officers and said that some improvements have already taken place and more will be implemented.

Ms. Sharp was asked to discuss the communication problems between DCC and prosecutors. Ms. Sharp said she agrees that work needs to be done to improve communication. She believes a read-only interface between DCC and prosecutors could be made available. A suggestion was made that parole officers relay offender information to prosecutors via e-mail or through a database.

Legislators asked DCC staff and parole board members to provide answers to the following:

- Will policy changes by the Arkansas Board of Corrections be integrated into the DCC matrix?
- What is the current industry standard cost per bed to construct a prison?
- What is the number of parolee incidents similar to the Darrell Dennis case?
- When will DCC have a risk assessment report completed?
- What is the total number of absconders in the state?
- DCC was asked to provide an update on the electronic monitoring pilot program.

There being no further business, the meeting adjourned at 1:15 p.m.