

MEETING SUMMARY

REGIONAL LAW, SAFETY AND JUSTICE COMMITTEE (RLSJC)

Thursday, April 22, 2010

7:30 AM – 9:00 AM

How to Have Less Crime and Less Punishment

Dr. Mark Kleiman, Professor of Public Policy at UCLA, presented research and information from his book When Brute Force Fails.

Our current crime rate is two and a half times higher per capita than the 1962 rate. Coupled with the high crime rate, our imprisonment rate is now five times higher (per capita) than it was in 1962. Five percent of our population accounts for 25 percent of the people incarcerated in the U.S. When broken down farther, specifically by race and class, the numbers are even more alarming. Kleiman further argues that crime rates, while markedly higher, are likely higher than they would be due to urban flight and other precautions that the populace currently takes.

How then, does the United States unwind this high crime and high incarceration outcome? According to Kleiman, we as a society must first have the desire to change. Then, we need to stop making crime pay. From a purely economic model (cost/benefit), crime pays under the current criminal justice system, which is why crime continues.

Kleiman maintained that in the current system, crime pays because consequences are deferred, often for a very long time. People are now-oriented and they would rather risk a large loss in the future than a large number of small losses in the short term. Cesare Beccaria stated that for punishment to be effective it must be swift, certain and severe.¹ In our criminal justice system, severe punishment is not and cannot be swift or certain. Severe punishment is not swift because of lengthy trials and time periods between offense and sentencing. Likewise, punishment is not certain because severe punishment cannot happen regularly.

Kleiman argued that we need to begin to shape our punishment to fit the people who commit the crimes, not to fit the people who write the laws. In the United States, our justice system is very sensitive to public opinion and therefore is not very strategic. Rules regarding punishment need to be very clear and consistently adhered to by officials enforcing them.

To this end, Kleiman argues for a “kinder, gentler, crime control” and more cost effective punishment. Kleiman argues that we must involve everyone in crime control including schools, health departments, etc. Changes he suggested included ideas such as later school days, taxing alcohol at higher rates, and social marketing against violence, and widespread investment in lead abatement. He also advocates more cost effective punishment by substituting certainty and swiftness for severity, finding the minimum effective “dose” of punishment to change behavior and making credible threats of punishment.

¹ Beccaria, Cesare. (1764), *On Crimes and Punishment*, Philadelphia: Phillip A Nicklin.

Kleiman also demonstrated his probation model for the committee. In Kleiman's probation model, probation officers focus their sanctioning efforts on the violators who are offending most frequently, eventually getting those high-risk offenders under control. Then the probation officers sequentially focus on less-frequent violators, slowly bringing a large caseload of offenders under control, by sanctioning offenders in a less random manner.

Finally, Kleiman talked briefly about the HOPE (Hawaii's Opportunity Probation with Enforcement) Project which has shown success in lowering the use of jail beds and shrinking the number of probation violations. The HOPE Project includes warnings to probations in open court, requires abstinence from illicit drugs (treatment is provided only on request or as a last resort), and provides for randomized drug tests and stipulates short jail stays for every violation.

Legislative Update from the Washington State Department of Corrections

Secretary Eldon Vail provided a brief update on the legislative changes made this year and what their effects on the Department of Corrections (DOC) may be. Secretary Vail reported that 2010 was much better fiscally for the DOC than the previous year.

The legislature made some small enhancements to community corrections, among which is a diversion program that will allow low risk property offenders to remain with their children. Additionally, there were no cuts to DOC's re-entry program. The program does still lack financial resources in terms of money to find housing resources. Also, about two-thirds of NCI (Neighborhood Corrections Initiative) cuts were restored.

A bill based on the HOPE project that Professor Kleiman described that mandated 48 hours in jail for violations was not successful during session. The fiscal note, which estimated very high costs, is likely to blame for the failure. The Sentencing Guidelines Commission has been tasked with further studying the issue.

A big issue in the legislature this year was prison closure. Pine Lodge will be closed in May and Ahtanum View has already been closed. Also of interest in this legislative session was funding to site a new prison to replace McNeill Island.

Finally, Secretary Vail noted that 650 DOC employees have been laid off and they are expecting about 250 additional lay offs.