



CRIME VICTIMS UNITED  
OF CALIFORNIA

**Little Hoover Commission  
June 25, 2013**

**Comments Regarding Criminal Justice Sentencing**

Good morning.

My name is Dawn Koepke with McHugh, Koepke & Associates pleased to be before you today representing my client Crime Victims United of California (CVUC).

As you may know, CVUC is the only organization of its kind representing all victims of crime – using education, legislative advocacy and political action to give victims a voice in and around California’s Capitol. CVUC believe firmly that the primary purpose of sentencing in California is to protect public safety while holding the offender accountable to both victims and society. Unfortunately, however, California is failing victims and society in this regard.

It has been suggested that crime rates in the past few years are seemingly declining. While some will suggest it is a result of fewer crimes actually occurring, CVUC believes it has a great deal to do with many of the pro-public safety/sentencing initiatives and legislation that were passed in the late 80’s and 90’s. Importantly to the latest downward trend, however, is the fact that prosecutors and law enforcement have been less inclined in recent years to pursue cases that will result in little to no action to hold the offenders accountable due to sentencing and housing changes under realignment and other changes in law softening sentencing and overall time served. In this regard, many offenses are not even reported and tracked as part of the statewide accounting of crime statistics – if those offenders are even brought in to the station at all for booking, much less charging.

Further, AB 109/realignment provided no specific, uniform standards by which to measure counties as they continue to implement the concerning shift of responsibility – much less any formal tracking of crime statistics and overall public safety data. State and local officials have agreed that they are not tracking such data as well as could be done raising serious concerns about statistics that suggest crime rates are falling. Contrary to the claim of a downward trend, a recently released FBI report shows violent crime in California, as an example, increased 2.9% last year. Murders in California increased to 10.5% while the nation as a whole saw a 1.5% rise. Based on our tracking and the work we do with victims, we believe these rising crime rates correlate directly with the passage of AB 109; California’s Prison Realignment.

Also of import, Crime Victims United remains firm in our position that “non-serious”, “non-violent” offenders are misnomers as they include individuals who have committed physical child abuse, stalking, human trafficking, solicitation to commit murder, elder abuse, hate crimes and more.. Offenders who fit these terms as classified by the Penal Code and were sent to prison are offenders with serious and violent individuals who have shown a propensity to escalated crime. Until realignment, county jails were – prior to AB 109 implementation – where we house the truly non-serious, non-violent offenders. In any review of sentencing changes, an offenders’ full history must be taken in to account – not just their last offense. Only classifying and sentencing

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an offender based on their last offense is irresponsible and will only lead to continued public safety erosion.

It should be noted that Crime Victims United of California supports rehabilitation efforts and programs – always maintaining a strong stance on this issue in the policy world. However, we often differ with our counterparts in how the rehabilitation should be administered. More specifically, we believe very strongly that rehabilitation must take place prior to release, not after release. Once released, there is no accountability for following through on rehabilitation programs and practices. The current approach simply returns the offenders to the same dysfunctional environments from whence they came. Without the skills and education to help them overcome their situation upon release, it simply sets the offenders up to fail.

**California Sentencing Trends & Risk of Status Quo**

It is no surprise that CVUC has grave concerns with AB 109/public safety realignment and its implementation. As you know, we have 58 counties with 58 very different socioeconomic climates. It is impossible for all of them to implement such a vast plan with cohesion, particularly without the state providing specific, uniform standards by which to measure counties as they continue to implement this concerning shift of responsibility. Further, as you've noted in your report on bail and pre-trial release, there have been no resources earmarked for evaluating whether the county approaches have done well or poorly over time. Instead, we rely on anecdotal review based on a couple of counties' experience – counties that often do not provide a representative sample of the complexities of the state and its population.

According to that same report, \$2 billion has been spent to date on AB 109 with little accountability. Considering AB 109 has been in effect for little over a year that is a high price tag with no accountability.

In terms of sentencing reform and those offenders who qualify for realignment, Crime Victims United of California remains firm in our position that there have never been any so called "non-serious", "non-violent" offenders in prison. To the contrary, prison is designed to house serious and violent offenders who have shown a propensity to escalated crime. There is no differentiation for these offenders under realignment.

While our counterparts may argue that strict accountability is costly and the state cannot afford the cost, I would remind you that sentencing should be geared towards public safety and the need to hold the offender accountable to victims and society. However, with constant erosion of sentencing as a result of credits, early release and more, there is no longer truth in sentencing and offenders are not being held accountable to the victims they've wronged. The system is heading in a direction that says to would-be offenders, you won't be held truly accountable for your crimes because we can't afford it. What message does this send to victims and society who must endure their crimes?

Costly or not, victims deserve their justice for the crimes imposed upon them and public safety should be paramount. Without safe streets and society, it doesn't matter how much more resources are poured in to education, healthcare, and etc. If children do not feel safe at school or at home they will never be focused enough to learn in the classroom no matter how much money is taken from the corrections and poured in to education.

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**Sentencing Commission**

For years CVUC has participated in various legislative and general policy dialogues about the establishment of a California Sentencing Commission. Importantly, CVUC has not outright opposed legislative efforts to institute a sentencing commission in the past. Instead, we have attempted to be proactive, sharing our concerns and possible solutions with Legislators. However, commission frameworks that have been introduced in the Legislature over the past few years have been of great concern to CVUC.

First and foremost, CVUC is adamantly opposed to establishing a commission that would delegate sentencing decisions to an unelected body. Furthermore, it is completely unacceptable that any sentencing decisions made by such a body would automatically go in to effect unless the Legislature **AND** Governor reject them (prior legislative proposals). Any recommendations made by the Commission must only become law by a favorable vote of the Legislature – no other framework is acceptable. The Legislature should be fully accountable for such policy decisions, rather than a commission that is not elected by the people.

Additionally, the makeup of such a Commission is a critical component to the outcome(s) of the Commission. CVUC feels very strongly that any Commission must be a truly bi-partisan, balanced distribution of Democrats and Republicans from various backgrounds. Furthermore, CVUC is adamant that a victim representative be a part of the makeup. Changes to sentencing laws under the Commission would have tremendous impacts on victims' and their families, as such the inclusion of a victims' representative is a must. CVUC also urges the inclusion of a victims' standing committee to evaluate the impacts of any changes in sentencing on victims and their families.

CVUC is also concerned about a Commission being directed to take prison capacity/population and resources in to consideration as a factor in devising sentencing guidelines. Placing this factor as a key consideration will ultimately result in sentencing that is not necessarily appropriate for the crime; rather, is based on whether the system can accommodate additional inmates for appropriate sentences. CVUC is adamantly against this being a factor in any sentencing framework.

Another key component to ensuring effective sentencing reform is the development and use of a risk-needs assessment. CVUC is adamant that in order for true reform to take place a risk-needs assessment must be completed at the time of sentencing and prior to parole. The caveat to this, however, is that the judge and jury must be provided the criminal's entire background package at sentencing, including previous criminal and behavioral activity. Judges need the whole picture in order to assess risk properly. For instance, is this criminal progressively increasing in activity and severity or is this a first offense? This is a key factor in establishing an appropriate sentencing framework for the State of California and should be a part of any discussion on sentencing and a sentencing commission.

On behalf of Crime Victims United of California (CVUC), I appreciate the opportunity to share our thoughts about criminal justice sentencing, reform, and establishment of a sentencing commission. Thank you!