



Testimony of the Boston Bar Association

Before the Joint Committee on the Judiciary

In Support of Sentencing and CORI Reform

Presented by Kathy Weinman, President, Boston Bar Association

July 27, 2009

- Good afternoon, Chairman Creem and Chairman O'Flaherty and members of the committee. My name is Kathy Weinman, and I am the President of the Boston Bar Association and a partner at the law firm of Dwyer & Collora. On behalf of the almost 10,000 members of the BBA, I thank you for the opportunity to appear before you today.
- The BBA's mission is to advance access to justice and serve the community at large. For almost two decades, the BBA has studied and advocated reforms to improve the Commonwealth's criminal justice system, with particular focus on sentencing and prisoner reintegration into society. We can promote fiscal responsibility and public safety while at the same time ensuring fair treatment for all our citizens. We are encouraged by the current climate indicating that now is the time for change.

The BBA supports reform of mandatory sentencing.

- Appropriate sanctions and correctional resources should be directed at offenders according to the seriousness of their crime and their risk to the community.
- In 1991, a joint Task Force of the BBA and the Crime and Justice Foundation issued a report entitled *The Crisis in Corrections and Sentencing in Massachusetts*, which provided a detailed review of our system for addressing crime in the Commonwealth.
- The Task Force specifically called for the repeal of mandatory sentencing, particularly the harsh and ineffective mandatory minimum drug sentences; and for the establishment of a 'tough, effective, and cost efficient' system of intermediate sanctions, in lieu of incarceration for non-violent offenders.
- Public safety is not enhanced by harsh mandatory sentences. Non-violent offenders sentenced to mandatory minimum sentences likely will return to the community without the tools they need to successfully contribute to society.

- Accordingly, as a first step, the BBA supports legislation that would allow individuals serving a mandatory minimum sentence for drug violations to be eligible for parole after serving two thirds of their maximum sentence.
- By offering the parole option for non-violent drug offenders, the system can transition eligible inmate candidates into the community and save our prison beds and costs for the violent offenders who pose a real threat to society.
- After nearly two years studying what has happened to parole practices in Massachusetts, the Boston Bar Association Task Force on Parole and Community Reintegration in 2002 found that parole is a valuable tool for reducing recidivism and, therefore, making our communities safer.
- Unfortunately, parole is under-utilized, because of the public perception that parole benefits only the offender -- not society -- and that when a prisoner is paroled, society is being soft on crime.
- In fact, parole allows offenders a chance to reacquaint themselves with the responsibilities and freedoms exercised outside of confinement, while under the Commonwealth's strict supervision. When prisoners are released to the streets with no supervision, the chances of re-offending are much greater. Overall, parole enhances public safety.
- Because of declining rates of parole, more and more offenders are simply "wrapping up" their sentences. They are then released to the streets with no supervision or the benefit of re-entry programs. Statistics show that recidivism is higher among those released without supervision.
- Parole provides an opportunity for successful reentry into society. With parole, individuals are released from incarceration -- but with supervision. They have greater access to treatment, training and other supports. They receive the help they need to successfully reintegrate back into their communities.

The BBA supports CORI reform.

- Ex-offenders who are seeking to put their lives back together face overwhelming obstacles, because their CORIs are sometimes unjustified impediments to lawful employment and housing.
- We need tools to enable those who have been mistakenly identified as offenders, or against whom charges have been dismissed, to correct their records promptly and effectively. We need reforms that permit ex-offenders to have their records sealed within a *reasonable* amount of time while ensuring complete access by law enforcement. And we need methods to purge juvenile records that bear no meaningful relevance to individuals' ability to become productive and well-adjusted adults.

- In the fall of 2006, the BBA formed a CORI Study Group, consisting of experienced lawyers practicing in various areas, ranging from criminal – prosecutors and defense -- to employment and health law. Others with substantial experience dealing with the CORI system also participated, including the Suffolk County District Attorney’s Office, the Committee for Public Counsel Services, the Boston Police Dept., the City of Boston’s Legal Dept., Youth Opportunity Boston, and Mass. Correctional Legal Services. The objective was to have a multi-partisan group review the Mass. CORI system and identify areas in which they could agree reforms were warranted.
- The BBA CORI Study Group reached consensus that there is an immediate need for substantive reform on the following matters: (1) the accuracy of the CORI reports ; (2) clarification as to who has access to CORI and what actions they may take based on the fact that an individual has CORI; (3) sealing of CORI; and (4) CORI matters unique to juvenile offenders.
- The BBA adopted a Statement, setting forth specific principles of reform, which are substantially reflected in the CORI reform legislation under consideration this term.
- Accuracy:
 - A system should be established that improves the accuracy of the CORI maintained by the Criminal Systems History Board. This system may require the implementation of technology that will promote the accuracy of information regarding the offender (i.e., a fingerprint verification system) as well as the offense.
 - A process must be established that enables the correction of erroneous CORI in a timely and effective manner.
- Access
 - The legislature should adopt criteria with respect to (i) who may have access to CORI and under what circumstances; (ii) the content of the CORI that should be released; and (iii) permissible use of the CORI in the housing and employment contexts.
 - There should be no restriction of access to CORI by law enforcement personnel.
- Sealing
 - The legislature should reduce the periods for sealing to periods that more accurately reflect scientific research regarding recidivism rates.
 - The current requirement that sealing is not available until fifteen years after completion of sentencing for a felony and ten years after completion of sentencing for a misdemeanor is not supported by relevant scientific research.

- The legislature should prevent employers and housing authorities from denying opportunities to an individual based on the existence of a sealed CORI.
- The Commonwealth is now experiencing a fiscal crisis of unprecedented proportions. The BBA urges the legislature to use this crisis as an opportunity for reforming mandatory sentencing, making better use of the parole system, and improving CORI .
- We hope the Committee will give favorable reports to sentencing and CORI legislation designed to remedy the defects in the current system in a way that advances public safety and promotes successful reintegration of ex-offenders into their communities.
- The BBA understands that sentencing and CORI reforms are complex, and have many components. In addition to the 1991 and 2002 Task Force Reports and the Statement of Principles, which we have submitted, we offer our assistance to the Administration, the Committee and the Legislature on these issues.
- Thank you for your time and attention to these important matters.