



Presentation

9/10/2008

Fiscal Review Committee Meeting

- Good morning ladies and gentlemen. Thank you very much for allowing me to talk with you today about a critical issue that affects the safety of all Tennesseans...that is the need for longer prison sentences for violent criminals...and what many of us believe is a flawed calculation scheme for determining the cost of enhanced prison time.
- Article One of our great State's constitution says that government is founded for the peace, safety and happiness of the people. Ladies and gentlemen, we in law enforcement believe the existing sentencing structure puts the peace and safety of Tennesseans, and their neighborhoods, at significant risk on a daily basis.
- Unfortunately, we do have the facts to support the **truth** that too many citizens of Tennessee and their families are being victimized, time and again, by repeat offenders who simply are not being forced to serve the very prison sentences they have received for criminal convictions.
- More than twenty years ago, real changes to our sentencing laws needed to be enacted, and those changes well served the needs of the State in the face of a potential federal court takeover of the prison system.
- We all believe in rehabilitation as the key to crime elimination in a person's life – but don't be mistaken, the repeat offenders who are victimizing our cities and towns have demonstrated over their criminal careers that they shun rehabilitation. The data is overwhelming.
- Convicted felons are being released from the prison system, many because of parole eligibility, and are re-offending at an alarming rate!! Simple truth – plain fact.
- For example, the most recent figures from the Tennessee Department of Corrections report a 50% failure rate for felon inmates released on parole. In other words, of the 3,998 felon parolees released in the year 2000, 1,984 had been returned to prison within three years. That IS TWICE the recidivism rate of those felons who flattened their sentences and were not released early!! Based upon my experience in Nashville over these last five years, I would argue that when we see this same analysis for today's criminal, IT WILL BE MUCH WORSE.

- That Correction Department data tells us that one in three persons who achieved early release while serving time for a personal crime, such as homicide, rape, robbery, or aggravated assault, wound up back in prison within three years. In other words, those 750 repeat criminals created new victims and new losses of innocence, life, and quality of life of Tennessee families and businesses because they had been released from prison early.
- As the committee is well aware, the Public Safety Coalition, comprised of the state's police chiefs, sheriff's, and prosecutors, has proposed legislation over the past several years to get tough on violent criminals and repeat offenders through enhanced prison sentences.
- With the exception of last year's enactment of a modified Crooks with Guns law, which seeks to use laser-like precision to hold within prison those who are the most dangerous, efforts to require violent criminals to spend more time behind bars and away from innocent citizens have failed. The resounding reason is the fiscal note. Such legislation, we are told, costs too much.
- I met last year with the persons responsible for researching and developing cost estimates for the legislature. While I very much appreciate their work, the cost estimates are akin to throwing darts at a board because they are missing the most important cost consideration of all.
- By not spending the money to keep violent criminals and repeat offenders behind bars longer, THE STATE IS SIMPLY CHOOSING TO SHIFT THE KNOWN COST OF THESE VIOLENT OFFENDERS TO OUR COMMUNITIES AND NEIGHBORHOODS THROUGH NEW VICTIMS AND LOSS OF LIFE AND INNOCENCE. THE COST IS ALSO BEING SHIFTED TO LOCAL GOVERNMENTS THROUGH REQUIRED POLICE INVESTIGATIONS, NEW BOOKINGS AND NEW PROSECUTIONS.
- Most importantly this shifting of cost is escalating the friction between the expectation of people to live in a crime free environment and local government's absolute lack of control over an obviously growing repeat offender population caused by the present early release structure.

- In the five years I have been chief here in Nashville, I have witnessed a growing frustration of victims when they learn the ridiculous, obnoxious and KNOWN rates of repeat offenders who were and are on the streets instead of in a prison cell.
- How do you tell a new victim terrorized by a repeat armed robber on early release that it was just too expensive to keep the defendant in prison? But is that not exactly what we are doing on a daily basis throughout the great State of Tennessee?
- How do you tell the family of a homicide victim that, we're sorry, but the killer was free because it cost too much to make him serve his full sentence for prior crimes? But is that not exactly what we are doing far too many times?
- Ladies and gentlemen, these costs that are knowingly being shifted to Tennessean's and their families are REAL...BUT ARE NOT TAKEN INTO CONSIDERATION IN THE CALCULATION OF WHAT MANY OF US IN PUBLIC SAFETY BELIEVE ARE UNNECESSARILY EXHORBITANT FISCAL NOTES.
- We believe that given the known rates of recidivism, including by crime type, a formula should be developed that takes into account continued incarceration of repeat offenders verses their severe financial and emotional burden on Tennessee's families and guests.
- Another cost factor not taken into consideration is the deterrent effect of enhanced prison sentences. Criminals now know that they are eligible to get right back on the streets after serving as little as 30% of their sentences. When we can finally do away with some of that early release criteria, I suspect just maybe they will think twice about committing the crime.
- We hear that New York and Florida have seen stronger sentencing laws translate into falling violent crime rates. I wonder what fiscal note calculation process they use?
- As a young officer in New Orleans, "car-jacking" was a critical crime that sprung up almost overnight. In like fashion, almost overnight, the rates of car-jacking

plummeted when the Louisiana Legislature enacted specific and tough sentencing for that crime.

- Simply put, my experience is clear: career criminals invest as much time in calculating their exposure to convictions, sentences, and parolee eligibility as we do. They pay particular attention to the potential of 100% incarceration. There is a DETERANT EFFECT to truth in sentencing!
- Now, I ask your indulgence as I talk specifically about Nashville. In the past 12 months, just over 13,000 persons¹ have been arrested for homicide, attempted homicide, robbery, aggravated assault, a drug offense, or a weapons violation.
- We're talking 13,000 people who are major crime problems among a resident population of more than 600,000. Of those 13,000, more than 60%, or 7,800 persons have a conviction in their background and nearly 30%, 3,900 persons have a felony conviction. Each offender has a local rap sheet containing an average of more than 16 prior charges. Even more frightening, we arrested 480 persons² for ARMED ROBBERY. Their average age is 26; but listen to this: 29% have been arrested for armed robbery before; 90% have a prior arrest history; 65% have a prior conviction; and 36%, or 173 persons, have PRIOR CONVICTIONS FOR A FELONY – but yet they were once again arrested for a dangerous crime within these last 12 months. These overall recidivism numbers have held steady for more than three years here in Nashville.
- Even more frightening for our community is the data of Commercial Robbery suspects from 2005 here in Nashville. A total of 101 persons were arrested for this crime. 58 of these persons had previous felony arrest, with 31 having previous FELONY CONVICTIONS. Further, 21 were later arrested for another armed robbery, and 82 were later convicted of armed robbery. Moreover, 57 were later arrested for a felony, and 90 were LATER CONVICTED OF A FELONY. Given these horrific rates of repeat offenders, is there no way to calculate the reduce crime and victimization cost to citizens and local and state government they are

¹ See Attachment A

² See Attachment B

responsible for if the Public Safety Coalition was to recommend 100% sentencing on first offense Commercial Robbery convictions?

- Ladies and gentlemen these are exactly the types of criminals that are frustrating to citizens, victims and courts – quite simply a frustration that is not the making of local government, but nonetheless laid at the feet of local government every night in every community meeting we attend and every day with every victim of a crime. This repeat offender cost is real, not only in human loss, but in millions and millions of dollars spent investigating and prosecuting an easily identifiable and predictable number of repeat offenders who have shunned rehabilitation services of DOC and others – yet that cost is not calculated by our fiscal notes!
- My bottom line fiscal note concern is this: repeat offenders represent a tremendous and predictable cost to citizens and local government that should significantly offset state estimates of increased incarceration cost. But yet that offset is not being taken into consideration as far as we can tell.
- Members of the committee, thanks to the tremendous work of Nashville's police officers, and our community partnerships, our city in 2008 is in its fifth overall year of major crime reduction. But I have a very strong and real concern that very soon we will meet with the repeat offender brick wall...and that dangerous convicted felons who have been released into our neighborhoods, over and over again, will be a key obstacle in our efforts to keep crime falling here for the rest of this decade. Surely the State plays a vital, continuing, and in fact, a controlling role through the definition of crimes and punishments.
- Rest assured communities cannot talk about economic development, educational excellence or other quality of life enhancements if crime is not taken into consideration. There are far too many obvious and clear examples of the decay of business vitality and educational achievement in neighborhoods where repeat violent offenders are not removed, permanently, from those environments. Overwhelming history and research continues to point out that those among us who have the least, who lose the most, are most often held hostage in their own neighborhoods or businesses when repeat offenders are allowed, as here, to escape real prison sentencing consequences of their behavior. That cost must be

calculated and used as an offset to the estimates of increased prison cost to house and incapacitate those who have chosen a lifetime of crime at the expense of our communities.

- We need your help, we need your partnership, and we need it soon. For surely, local government plays a critical role in crime control, but the State government plays the decisive role through legislating crimes and their punishment. Thank you, again, for inviting me to be here today and I am pleased to answer any questions.

Recidivism Bottom Line

9/1/2007 to 8/31/2008

13,431 unique persons have been arrested over the last 12 months for at least one of the following Charges: Homicide, Robbery, Aggravated Assault, Burglary, Drug Offense, and/or Weapons Violation.

On Average:

- ~48.8% have been previously arrested for the same offense
- ~79% have been previously arrested for any offense
- ~33.2% have been previously arrested for a violent Part I Offense
- ~49.6% have been previously arrested for any Part I Offense
- ~32.8% have been previously convicted of the same offense
- ~27.1% have been previously convicted of a Felony
- ~61.2% have been previously convicted of any offense
- ~Each offender had an average of 16.5 prior charges
- ~The average age of the 480 persons arrested for robbery is 26.2

Crooks With Guns:

219 of the 13,431 unique persons have been arrested under the Crooks with Guns bill since 1/1/2008.

- ~With increased arrests, and a conviction percentage well above the national average on felony cases, why do individuals continue to re-offend?
- ~Future analysis is warranted to analyze sentencing upon conviction, and actual time served in prison on those sentences imposed

Davidson County Criminal History of Unique ADULTS Arrested in the Past 12 Months for a Part I Offense or a Drug or Weapons Charge From 9/1/2007 to 8/31/2008

Column 1. Arrested Offense	Column 2. Unique Persons Arrested	Column 3. Average Age of Individual Persons Arrested	Column 4. Illegal Aliens Arrested Under the 287(g) Initiative	Column 5. Unique Persons Previously Arrested on the Same Offense	Column 6. Unique Persons Previously Arrested on Any Offense	Column 7. Previous Charges (Same Offense)	Column 8. Total Previous Charges	Column 9. Unique Persons with a Previous Conviction on the Same Offense	Column 10. Unique Persons with a Prior Conviction on Any Offense	Column 11. Unique Persons Previously Arrested on a Violent Part I Offense	Column 12. Unique Persons Previously Arrested on Any Part I Offense	Column 13. Unique Persons with a Previous Felony Conviction	Column 14. Unique Persons with a Previous VIOLENT CRIME Felony Conviction	Column 15. Unique Persons with a Previous DRUG Felony Conviction
Homicide*	171	28.6	7	28	153	36	2,541	4	113	99	125	59	23	25
Forcible Rape	87	36.8	12	6	65	10	642	3	47	28	38	16	7	3
Robbery	480	26.2	12	139	433	291	7,273	30	310	271	351	172	65	73
Aggravated Assault	4,289	33.8	189	1,534	3,200	3,665	45,442	830	2,430	1,649	2,157	1,041	402	360
Burglary	522	32.0	12	144	452	338	9,084	66	378	222	363	197	53	48
Larceny	3,805	32.5	89	1,615	2,835	5,803	45,114	976	2,094	1,052	2,027	928	247	254
Auto Theft	213	33.3	6	30	185	48	3,687	18	148	89	142	83	21	20
Drug Charges	8,445	32.9	155	4,713	6,928	22,639	120,400	3,394	5,476	2,567	4,155	2,466	567	1,351
Weapons Charge	1,127	28.9	28	316	894	516	12,781	129	672	424	582	342	105	174

Percentages

Column 16. Arrested Offense	Column 17. Percent of Unique Persons With an Arrest History of the Same Offense	Column 18. Percent of Persons Arrested Under the 287(g) Initiative	Column 19. Percent of Unique Persons With an Arrest History	Column 20. Percent of Unique Persons with a Prior Conviction of the Same Offense	Column 21. Percent of Unique Persons with a Prior Conviction on Any Offense	Column 22. Percent of Unique Persons With a Violent Part I Arrest History	Column 23. Percent of Unique Persons With A Part I Arrest History	Column 24. Percent of Unique Persons with a Prior Felony Conviction	Column 25. Percent of Unique Persons with a Prior VIOLENT Felony Conviction	Column 26. Percent of Unique Persons with a Prior DRUG Felony Conviction
Homicide*	16.4%	4.1%	89.5%	2.3%	66.1%	57.9%	73.1%	34.5%	13.5%	14.6%
Forcible Rape	6.9%	13.8%	74.7%	3.4%	54.0%	32.2%	43.7%	18.4%	8.0%	3.4%
Robbery	29.0%	2.5%	90.2%	6.3%	64.6%	56.5%	73.1%	35.8%	13.5%	15.2%
Aggravated Assault	35.8%	4.4%	74.6%	19.4%	56.7%	38.4%	50.3%	24.3%	9.4%	8.4%
Burglary	27.6%	2.3%	86.6%	12.6%	72.4%	42.5%	69.5%	37.7%	10.2%	9.2%
Larceny	42.4%	2.3%	74.5%	25.7%	55.0%	27.6%	53.3%	24.4%	6.5%	6.7%
Auto Theft	14.1%	2.8%	86.9%	8.5%	69.5%	41.8%	66.7%	39.0%	9.9%	9.4%
Drug Charges	55.8%	1.8%	82.0%	40.2%	64.8%	30.4%	49.2%	29.2%	6.7%	16.0%
Weapons Charge	28.0%	2.5%	79.3%	11.4%	59.6%	37.6%	51.6%	30.3%	9.3%	15.4%

*Includes 'Attempted' Homicide
 **All arrests, charges, and convictions are applied to the location of the defendant's most recent arrest
 ***Data sourced from MNPD Arrest Records and Case Adjudication Information from CJIS.