

Criminal Justice Collaborative Council

CJCC Full Council Minutes

July 20, 2007

LLRC- Room A

Ann Arbor, MI

7:30am – 9:00am

- Members Present:** Dan Dwyer (Trial Court Administrator), Brian Mackie (County Prosecutor), Archie Brown (Circuit Court Chief Judge), Bob Guenzel (County Administrator), Ann Mattson (15th District Court Chief Judge), Barbara Ryan Fuller (Public Representative), J. Cedric Simpson (14A District Court Chief Judge), John Shea (Attorney, Bar Association Representative), Mike Moran (Ann Arbor Township Supervisor), Paul Bunten (Chief of Police, City of Saline), Charles Pope (Magistrate-14B District Court), Dan Minzey (County Sheriff)
- Members Absent:** Donna Sabourin (Director, CSTS), Patrick Hughes (Department of Corrections Probation), Barbara Levin Bergman (Community Corrections Advisory Chair), Lloyd Powell (Public Defender/Defense Attorney), Robert Brackenbury (Public Representative)
- Others Present:** Stephanie Jensen (CJCC Intern), Delphia Simpson (Public Defender's Office), Scott Patton (CJCC Staff), Kirk Filsinger (Jail Commander), Gary Greenfield (Lieutenant), Wayne Ahlers (Sheriff's Dept.), Michael Crowell (Prisoner Transport), Rick Visel (Director of Correctional Services), Lt. Karen Korte (Lt. Corrections), Susan Beecher (Support Services), Steve Overhiser (IT), David Behen (Deputy County Administrator), Uma Haristha (IT), Megan Wolfe (Support Services), Jim Zwolensky (Support Services)

Call to Order

CJCC Chair J. Cedric Simpson called the meeting to order at 7:35am.

I. Approval of Minutes

The motion to approve the minutes of the May 18, 2007, CJCC Full Council meeting was made by Bob Guenzel, seconded by J. Cedric Simpson; unanimously approved by CJCC members.

II. Public Participation

None.

III. Jail Population Reports

Patton stated that the CJCC has asked for support data of the prisoner population dynamics. The data was reviewed preliminarily at the retreat and the IT staff has worked diligently to produce the data that was requested. He reported that the data illustrates some interesting information.

Fuller requested introduction of those at the meeting before proceeding with the presentation from Patton. The group complied.

Patton continued and referred to the packet distributed to the group. He noted that the first item is a memo that summarizes the data that follows. He referenced the 2004 NIC report that provided a comprehensive data snapshot about the current prisoner population and was the first he had seen a comprehensive report. The important numbers reported are the sentenced vs. unsentenced, which were fairly equal at that point in time. This report was also the basis for the recommendation given by the Administrator to the Board of Commissioners regarding the jail expansion and also a historical view of the population.

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Patton continued to report that in depth discussion occurred as a result with a committee to determine definitions and rules regarding the population. The committee determined that a person sentenced on any charge is considered sentenced and that felonies trump misdemeanors. Also, inmates will show up as sentenced even if they have pending charges. Also, the CJCC determined three levels of danger severity for felonies: high (A-D classification and M2), low (crimes against person, including drunk driving), and other (property crimes and drug offenses). The definitions for misdemeanors mirrored those for felonies. The committee also addressed recidivism, defining it as someone who reenters the jail on one charge and at some point in the future enters on a separate charge. A success is considered if a person is not rebooked in Washtenaw County.

Patton referred to the 2007 overcrowding dates in the memo that were a result of Section 7.

Moran asked about restricted access to the jail for specific sentences. Patton responded that it was in response to Section 8 and that perhaps the Sheriff could speak to this. Minzey stated that it is mandated by statute.

Patton presented jail data that was current as of July 3rd and stated that we are currently in the banding stage. He also offered the County jail average monthly population numbers. For felonies, it appears that there is not much variance in sentenced versus unsentenced. However, there has been a dramatic decrease in sentenced and an increase in unsentenced in the six months of data for 2007 thus far. Patton then stated that the question is why. He spoke with Dwyer regarding this and it was revealed that there has been a dramatic increase in capital offenses, particularly in February 2007, compared with 2006.

Shea stated that the increase in capital offenses does not seem to explain the increase in May and June. Dwyer stated that the numbers in May and June are impacted by the increase in February. Brown commented that Section 7 is an additional factor and that it only applies to sentenced inmates. Mattson added that it also included some inmates that are sentenced on a felony and are also waiting on a misdemeanor charge, so the inmates are in different categories. Dwyer stated that it seems that the trend will keep the numbers high for quite a while because of a backlog of jury trials. Shea offered that perhaps the spike in May was due to the number of total case filings. Dwyer offered to find the filing data. J. Cedric Simpson added that because cases do not flow through the system the same way, they start to bottleneck. Brown added that due to lag from the forensics center, trials are being postponed to wait for evidence.

Patton asked if the adjournments are affecting the sentencing side. Brown responded no, that we are in the three week range for people in custody. He also stated that some other counties have dedicated people to do their pre-sentencing that speeds the process. Shea acknowledged the lengthy process and stated that perhaps the explanation could be more filings, while also speculating if it is due to police activity, could be seasonal, etc. Dwyer stated that he would get this information to Patton; Patton stated that he would distribute it to the group.

Patton then covered data reported regarding misdemeanants. There was a slight increase in May. Patton stated that this was an overview and offered to have a detailed discussion if desired. Guenzel then asked about the conclusions made by Patton in the memo on page three regarding policy. Patton responded that if total capital filings have increased for any number of reasons that the problems with unsentenced felons trend will continue. It is uncertain if this is the beginning or end of that trend so we have to wait and see. Guenzel stated that Section 7 was having little effect. Patton agreed and continued to say that its impact will increase and will not be the solution to overcrowding. Guenzel asked if the default position was a lockout, and Patton affirmed.

Guenzel asked about the current status of overcrowding. Minzey replied that we are currently in the banding stage. Guenzel asked Filsinger his opinion on the current situation. Filsinger responded that was a small number of inmates that could have been release due to a reduction, however today the number that needs to be released has increased. He added that we will have to wait and see.

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Brown asked if Filsinger or Visel had noticed any significant differences in the jail population as a result of the DOC. Filsinger replied that he had not. Brown also asked if there have been any problems with inmates being held because of competency issues. Filsinger responded that it is taking longer than it has in the past. Shea inquired as to whether the numbers of inmates arrested and released on the same date is being tracked. Filsinger replied that it would be dependent on what the situation is in the overcrowding statute. Shea wondered how that would impact the data. Patton stated that the median was two days and that both the felony and misdemeanor sides were fairly consistent.

IV. Michigan Prisoner Re-Entry Initiative (MPRI)

Mackie stated that this was a big initiative when it started and that funding is supposedly increasing but appears to be insufficient for payment to service providers. He also stated that the better providers are not bidding on provision. He distributed information included an article from the Michigan Association of Counties (MAC) and parole rates data.

Fuller asked that if the better service providers are not bidding, is this creating a caste system for those who can afford better services. Mackie stated that those who receive services from a facility end up paying more to supplement the costs of the recipients from the DOC. He continued that because there is less money coming to cover all recipients, service quality diminishes for all. Guenzel added that if CSTS takes on a client, they often fail to meet the statutory requirements to receive funding to provide needed services, and then there is a tradeoff because of the shortfall of funding for service provision. He also stated that there are providers in the community providing services but they are not necessarily proven. However, some agencies have taken contracts, but the problem then becomes lack of funding from the state. Guenzel asked if the funding was to be increased for next year. Delphia Simpson stated that it is in the budget, but it has not been approved. Fuller stated that based on the discussion, only those that can afford it are receiving services. Guenzel replied that this is true, mostly due to the fact that those who have been released from prison do not have resources to pay. He added that the program seems to be good in theory but has problems in execution. Patton agreed. Fuller asked if that means that those who cannot afford the services simply do not receive them, which may lead to recidivism. Guenzel stated that it was essentially true and that DOC stance is that the released people are coming back to the communities anyhow. Delphia Simpson agreed. Mackie stated that it is hard to determine what the right services are that will help that situation and that the goal of MPRI is good. Guenzel added that the lack of funding is the problem for providing services and that the MAC agrees. Also, changes in sentencing guidelines will likely exacerbate this problem.

Guenzel then asked where the issue is in the legislature. Mackie responded that there will be hearings in the coming weeks and prosecutors will be able to air their opinions. Also, the proposals are constantly changing and few beds will be saved, regardless of the reduction of penalties. Fuller expressed concern that changing sentencing guide and that the community may not have a clear understanding of the policy. Mackie stated that policies are often driven by budget events, though sentencing needs to be done properly.

V. Proposed Sentencing Guidelines Changes

Shea noted that according the data reported by the MDOC, it appears that the State tend to over incarcerate. He also suggested that perhaps we spend too much on incarceration. Mackie stated that the perception is that there is too much crime. He also stated that it is hard to compare our numbers with that of other states because of the difference between the corrections systems.

Patton noted that the memo published by the Michigan Association of Counties (MAC) does a good job outlining the changes included in the proposal. He wanted to draw attention to the impact on Washtenaw County and that the MDOC reports that the changes would reduce our bed needs by twenty eight, based on the state average of housed felons. He also noted that our average was lower than the state average which would reduce the impact and that probation violations are not factored in to the data. Mackie suggested that the data provided from the MDOC does not give an accurate outlook and the changes to the guidelines will not necessarily save jail beds.

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Patton referred to page twenty four of the proposal that indicates a county by county breakdown of funding for jail expansion for the state. He also indicated that the inequity of funding between the counties suggests that sentencing varies greatly between them. Mackie added that Washtenaw's sentencing practices is disadvantage for the County in terms of receiving funding.

Shea asked if the data indicating jail sentences are including those who have time credited to them. Mackie said that he did not know. Mackie then asked Brown and J. Cedric Simpson if in their dealings with MDOC they agreed with the data reported. He then asked Brown about his presentation to Wayne County. Brown explained that in some other counties those sentenced to ninety day sentences are being released quickly to stay out of overcrowding situations. He is not sure how the decision making process is being done, though he thinks that the judges were not involved. Brown also stated that he does not recall giving any sentences less than a year that were not concurrent with other sentences. Dwyer also stated he was not aware of those cases either. Shea suggested that the consecutive sentences were not being broken down and separated. Mackie stated that the numbers given by the MDOC still do not seem to add up to reality. Dwyer asked what the source for the information was. Mackie replied that it was contained in an e-mail from someone within the MDOC.

Mackie presented data from the parole board reflecting numbers of prisoners paroled from January 2007 to May 2007. There was a significant increase over 400 during that time. J. Cedric Simpson asked for comment. Mackie added that there is more to the issue than jail beds. There are also issues of providing probationary services for those on parole as a result of the reduced sentences, and who will then be a responsibility of the counties, rather than the state, with limited funding. J. Cedric Simpson then asked if Mattson had anything to add. Mattson replied that this was not the first attempt at this.

Fuller asked Mackie and judges if the prosecuting attorneys will make a collective statement once it is determine what their stand will be on the issue. J. Cedric Simpson said the Michigan District Judges Association would be making a statement but no conclusions have been reached yet. Brown stated that it is the same for the circuit judges. Fuller asked where the statements will go then, and Brown responded they will be forwarded to the legislature. Mattson added that it may not matter if the recommendations will not save money. Fuller stated that it is important that the recommendations are coming from credible sources saying that the state will not save money with the policy changes and safety will not be increased. Mattson stated that the responsibility is being shifted from the state to the counties and cities to make up the difference. Fuller stated that the public does not have a clear understanding of this issue and reinforced that we need a credible voice to dispute the facts reported by the MDOC. Shea explained how policy has changed and has always been driven by public perceptions. Bunten concurred. Shea stated while there are some good things in the policy, he does not believe it will be effective in reducing crime and overcrowding. Bunten added that perhaps we are changing the policy for the wrong reasons.

Pope stated the district courts are used to receiving some extra burden because of policy changes, though some reductions do make sense. For example, first time felony offenders often get reduced to misdemeanors in the County and then are remanded to district court. However, it will have an impact on resources, which may include jail beds. More people on probation will consume more resources from community corrections. He also stated that when looking at the numbers of inmates sentenced to the maximum sentence, it is because of they have had multiple violations causing longer jail terms. He agreed with the statement by Shea that policy is influenced by politics. He reiterated that some of the policy makes sense, but the problem seems to be pushed from the state to us. Mattson added that could lead to unsupervised probationers because of lack of resources for supervision. Pope added that it will become impossible to monitor parolees. J. Cedric Simpson agreed and stated that it seems to be setting them up for failure because we will not have the resources to monitor. Brown added that there a couple additional problems like turnover in County corrections and reduction of funding for corrections will ultimately increase bookings. Dwyer stated that that the problem is that if you are going to violate someone's parole, you have to give them a longer sentence. J. Cedric Simpson stated that it has been difficult to deal with the number of cases on his docket and it is a challenge. Mackie stated that the cases can be dealt with quickly, but the handling quality will suffer.

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Shea further expressed his skepticism of the validity of the data in the report. Mattson, Brown, and J. Cedric Simpson commented. All agreed that the numbers were presented in a way that supported saving jail beds. Moran stated that the group is agreement that the revised sentencing will not have a great positive effect on the County and is also not supported by the data. Also, reduction of funding is not a new issue.

Brown stated that we need to look at why our misdemeanor filings are down and asked Bunten if anyone was currently looking into this. Bunten replied that he was not aware if this was being looked at. J. Cedric Simpson agreed with Brown and Bunten. Bunten suggested that a reduction in the number of officers may have an impact on this. J. Cedric Simpson also agreed with this statement.

VI. Public Safety and Justice Project Oversight Committee Update

Zwolensky began the update on the court and jail expansion plans. He stated that Saline court is currently over budget and that we are working on finishing the design to fit in to the budget. For the jail, the budget is acceptable and we are in the schematic phase to design floor plans. A meeting is scheduled for July 31st with the architects to look over the plans. It has been decided to do minimal work to the laundry and kitchen, maintain the infrastructure upgrades, and improve upon the intake/booking/release area renovations and increase the bed count by 112. For the courts, Zwolensky stated that there is a larger gap in the budget than the jail, but it has improved. The gap still needs to be narrowed before we can move to the schematic phase. He also stated that there are still many difficult decisions to be made.

Shea asked a question regarding conference room space in Saline and Washtenaw County Jail and stated that there had been many complaints of waiting time because of a room shortage at jail. Zwolensky responded that there will be private client/attorney rooms available, in addition to some mixed use areas. Also, he stated that at the jail, we are looking into using video for communication in the new housing pod and individual meeting rooms.

J. Cedric Simpson reiterated that there are hard decisions regarding space that have to be made and the room deficit has been acknowledged. We will have to prioritize the needs of the court and what is required by statute. Shea responded that this has been an issue for while and that we should address this with new infrastructure. J. Cedric Simpson stated that the problem may not be resolved because, while the conference rooms are important, they are not mandated. Shea responded that he wanted to make his voice heard and that he would like to be part of further discussion.

VII. Adjournment

J. Cedric Simpson declared the meeting adjourned at 9:17.

Next meeting

The next CJCC Full Council meeting is scheduled for Friday, August 17, 2007, 7:30am at the LLRC, Room A.