

Criminal Justice Collaborative Council

Meeting Minutes
March 17, 2006
200 North Main Lower Level Conference Room
Ann Arbor, MI
7:30am – 9:00am

- Members Present:** Jose Bartolomei (Public Representative), Archie Brown (Circuit Court Chief Judge), Dan Dwyer (Trial Court Administrator), Barbara Ryan Fuller (Public Representative), Bob Guenzel (County Administrator), Dan Minzey (County Sheriff), Michael Moran (Ann Arbor Township Supervisor), Wesley Prater (Board of Commissioners, Chair), John Shea (Attorney, Bar Association Representative), J. Cedric Simpson (District Court Presiding Judge)
- Members Absent:** Barbara Levin Bergman (Community Corrections Advisory Chair), Paul Bunten (Chief of Police, City of Saline), Patrick Hughes (Department of Corrections Probation), Lawrence Kestenbaum (Clerk/Register), Brian Mackie (County Prosecutor), Lloyd Powell (Public Defender/Defense Attorney), Kathy Reynolds (Executive Director, WCHO)
- Others Present:** Sheila Blakney (Senior Assistant, Public Defender), Julie Chaffee (Director, Community Corrections), Karen Edman (Chief Deputy Clerk/Register), Kirk Filsinger (Jail Commander), Michael Fried (Dispute Resolution Center), Uma Harithsa (Manager of Applied Technology, IT), Steve Hiller (Deputy Chief Assistant Prosecutor), Scott Patton (CJCC Staff), Chuck Ream (Scio Township Trustee), Maiyuwai Reeves (Business Analyst), Kerry Sheldon (Management Analyst), Delphia Simpson (Public Defender Manager), Rick Visel (Director, Correctional Services), Linda Wicks (Recording Secretary)

Call to Order

CJCC Chair Archie Brown called the meeting to order at 7:45am

I. Approval of Minutes

The motion to approve the minutes of the February 17, 2006, CJCC Full Council meeting was made by Wesley Prater, seconded by Barbara Ryan Fuller; approved by CJCC members.

II. Public Participation

None.

III. Public Safety and Justice Initiative

Bob Guenzel reported on a number of issues that are directly related to the PSJ Initiative, indicating that the BOC has determined that the following two issues will go forward:

- 1) Court Security, reported on at the 2/17/06 CJCC meeting, this is now in the process of implementation – working with Dan Dwyer (Circuit Court), Mark Ptaszek (14A District Court) and Sheriff Minzey regarding construction and operations.
- 2) Preliminary work on the Saline District Court (BOC final approval pending). Guenzel indicated that this is a statutory obligation that has not been met for a number of years. He noted preliminary work for the Saline District Court includes the process of purchasing property and selecting an architect.

Guenzel stated that the BOC is continuing their several month process of examining County Space Needs; indicating that an inventory of County buildings was presented at the Working Session Thursday, March

16, 2006, focusing on the maintenance of these buildings and the 1/8 mil designated in each budget to maintain buildings. Guenzel noted that the BOC will begin work in April on the 20-Year Strategic Space Plan, with a primary focus on Public Safety and Justice, stating that the BOC will be working on this Strategic Space Plan throughout the summer. He indicated that they are also in the process of drafting a strategic Public Engagement Process, for other elected officials, citizens and advocates on many sides of the issues, primarily around the jail – also indicating the need to use this Public Engagement Process to seek input in terms of the Courts. Guenzel noted that there is significant information already available regarding the Courts and Jail; that a number of studies have been done prior with each attempt at a millage or proposal, indicating that it is mainly an issue of taking work already done and bringing it up-to-date. He indicated that he believed a 20-Year Strategic Space Plan will be complete by November; then facing the toughest issue of how to pay for. Guenzel indicated that the Public Engagement Process will have a piece for the CJCC; with one issue being what role this group would want to play, both in terms of input and leadership. He noted that it would be another month or two before this would come to the CJCC agenda.

Guenzel noted that the lawsuit that had been started concerning Police Services is now incorporating the jail and Courts. He indicated that the first five counts of the lawsuit had to do with allegations that in the Police Services area there was some sort of master contract for a 10-year commitment to the methodology that was used previously; indicating that the County has filed a motion for summary disposition on all five of these counts, heard by Judge Joseph Costello on Wednesday, May 15, 2006; with Judge Costello indicating a written decision by April 6, 2006. Guenzel noted that the complaint has been amended, adding a couple additional parties including Judge Collins from 14B District Court (with two counts in the law suit indicating that he is unable to perform statutory/constitutional duties because the jail is overcrowded, asking that a receiver be appointed to take over County finances, and indicating the same thing for 14A-1 District Court). Additional lawsuit counts include one from Lincoln School District and one alleging the County violated the Open Meetings Act. Guenzel noted that the County has filed a motion for summary disposition on all of the counts, to be heard on April 6, 2006, by Judge Costello. He noted that the County would like these dismissed as a matter of law. Guenzel indicated that in the interim the Sheriff has moved to intervene as a Party Plaintiff with 3 or 4 counts, alleging that the County has not met its statutory obligation concerning the jail, that the County has interfered with his constitutional duties and also a count regarding violation of the Open Meetings Act. Guenzel indicated that Judge Costello heard this motion to intervene on Wednesday, indicating he would issue an opinion on it by April 6, 2006.

Guenzel stated that the County believes it has some strong legal arguments, and would rather be directing its energy in trying to get the problems solved than to spend hundreds of thousands of dollars on legal fees, noting that the County is faced with this deluge of related claims, but claims that should not perhaps be part of the same Police Services law suit. He stressed that the original law suit was about Police Services; indicating his hope that the Judge understands this and keeps the matters separate. Guenzel shared his feeling that it seems a bit hypocritical for some to say that the County has not tried to meet its needs; noting many have spent hundreds of hours in terms of planning and advocating; and that some who have not supported these efforts are now suing the County saying that the County has not lived up to its obligation. Guenzel noted that Judge Costello is from Monroe County, further indicating that the Judge had commented to the Sheriff's attorney that they have jail overcrowding in Monroe County and in Oakland County – inquiring if they really want him to take over the County finances.

Guenzel stressed his goal to get these matters out of court, and where they should be in the planning process. He noted that with regard to Police Services, with the help of Mike Moran and several Township officials, the County now has a better relationship. He noted that the methodology for 2008 & 2009 has passed, and it will lead to the long-term sustainability of the Sheriff department. He indicated that not all townships and Commissioners were completely happy with this methodology, but that it was a compromise forged by Commissioner Prater which will help all put this issue behind. He indicated his goal to have the Police Services Steering Committee continue to help work with the County and Sheriff in terms of improving relationships, not only about the dollar portion of contracts, but about how we serve the citizens of Washtenaw County. He further indicated that the Steering Committee may be able to assist in talking about space needs for the jail and court. Guenzel shared that he is very encouraged about this year and what it offers and his hope that the CJCC can fully participate in these discussions.

John Shea inquired if the County is at least cautiously optimistic that a decision would be made on everything by the April 6 date. Guenzel responded that he expected a determination on the first five counts before April 6, noting that Judge Costello indicated he usually gets his written opinions out within 20 days – and that by the middle of April there should be a pretty good idea of where the lawsuit is. He further noted that the plaintiffs have filed a large stack of interrogatories and requests for admissions – and have asked that the ten Commissioners being sued be scheduled for deposition. He reiterated that there should be a very good idea about where the Court is by the middle of April, determined either by the County motions being successful, with only a few counts remaining; or with the County involved in discovery and litigation that could go on for years.

Archie Brown clarified his understanding that Judge Costello had stayed the requirement of having to do the discovery until after he has issued his opinion. Guenzel confirmed that upon Judge Costello's request the plaintiff has agreed that until the motions are decided the time does not run on the discovery - therefore the Commissioner depositions that had been scheduled for the next few weeks have been delayed.

Shea noted that it takes two to negotiate, inquiring if the other side has continued to maintain open/honest communications toward the settlement. Both Guenzel and Wesley Prater indicated no.

Barbara Ryan Fuller inquired if there will be a "pricetag" provided for the public to know what this is costing. Guenzel indicated that it is a matter of public record, subject to FOIA. Fuller indicated that she felt the public would be very interested in knowing what this is costing them as the tax payer, when issues such as this resist resolution.

Jose Bartolomei inquired about the school district's interest in this law suit. Guenzel indicated that the County contracts with 4 or 5 school districts to provide a deputy, and that the school districts involved in the lawsuit are saying that they signed under duress – that Corporation Counsel indicated that if they did not sign they might not have services.

IV. Jail Overcrowding Overview

Dan Minzey indicated that he had recently met with the Judges to discuss a change the Sheriff's Office was making in boarding out inmates, to make sure they were aware of this change and that it would work. He noted that previously only sentenced people were boarded out, but because of overcrowding they are taking a different look at this process and would be boarding out some pre-sentenced individuals. He indicated that they board out on a regular basis about 50 inmates, with a high of about 100. He noted that they started out with about 20, bringing these inmates back whenever they were out of over-crowding; noting that this now has progressively moved up to about 50. The physical count inside the facility remains at an average of 350, as high as 390 – bringing an average population to about 400, with a high of 489. Brown inquired about the time frame parameters for these numbers, with Kirk Filsinger indicating approximately the last 8 months.

Minzey noted that once the population gets to 380 they need to start looking closely at those that can be boarded out; that they don't want the physical facility to go over 400. He noted that boarding out pre-sentenced individuals brings with it a whole new set of complications to watch and manage, with issues such as working with 7 different counties for boarding out and transportation. He indicated that they currently tend to move inmates on weekends due to staffing – and they must move into "lock down" while using resources to transport out. He stressed that there is a lot of new ground to be looked at as they break some of these barriers and board out pre-sentenced individuals.

Mike Moran inquired how many of the average 50 boarded out are pre-trial. Minzey indicated that up until just recently, not any. He indicated that they are looking at locations that they can get these individuals to and from with the need to get them back seven days before their court date. Filsinger noted that logistically they try to keep the pre-trial individuals at Jackson County, which is the closest location – indicating that there are about ten pre-trial in the "50" boarded out average number.

Moran inquired why pre-trial individuals would be boarded out if there are sentenced folks that could be boarded out instead. Filsinger indicate that there are issues involving programming and contractual

obligations with regard to food service, to provide inmate labor - indicating that there are security concerns about bringing pre-trial inmates to the kitchen. Minzey noted that classification becomes an issue when boarding out to other facilities, and Filsinger added that medical issues are another limitation.

Dan Dwyer noted that it is some of the “easier guys” that are boarded out, inquiring if these numbers are included in the population counts, if they are not actually in the County jail, with a response of yes these figures are included. Shea inquired if the judges know who is boarded out, and if they want to know this information. Brown indicated that it would not affect his decision, while it is information that could be shared, he would not release somebody simply because they are being boarded somewhere else. J. Cedric Simpson agreed with this.

Shea inquired how pre-sentenced individuals are selected to be boarded out. Filsinger indicated that a number of factors are used to determine which pre-sentenced folks are boarded out, including: when the sentence date is (tend to keep those here who have a near court date) and if they meet criteria – noting that facilities can be very selective regarding who they take because of the supply/demand for bed space. Moran offered that it might be more beneficial to keep those with a later court date here; that boarding these individuals out might impinge on their ability to meet with family, etc.

Guenzel expressed his concern for the reasons there have been huge “spikes” in the jail population, noting that 80 are currently boarded out now. He indicated the need to get an explanation for why these “spikes” are happening – either something occurring with arrest policies or with the judges. He noted that the BOC has worked to try and keep a lid on the population, with dollars spent on pre-trial services and with Community Corrections doing their job. He expressed concern that the County not only pays the bill for boarding out, but for overtime costs at the jail with well over 1.5 million spent last year. He acknowledged that it is a difficult issue, but that we need to start looking at arrests and bookings; that something is occurring to result in this spiking. Guenzel indicated that it is incumbent upon this council to look into this. Shea expressed his agreement, noting that when in an overcrowding situation judges may feel pressure to allow people out who shouldn’t be. He suggested that in looking at data we may see an explainable coincidental rise in jail admissions after over crowding ends, noting this is probably more a court issue than a police issue, further indicating that he did not think police gear their arrest decisions based on overcrowding.

Simpson offered his differing opinion, noting that when the County is out of overcrowding typically the arraignments at the jail go up (heightened level of bench warrant arrests).

Minzey agreed that police do wait until word that the County is out of overcrowding before picking up folks on warrants, noting that there is a perception outside the County of what will happen, based on County jail overcrowding, when they make an arrest, which may impact police actions. He noted that local Police Chiefs have expressed this as a frustration, suggesting it might be appropriate to bring them in on discussions.

Dwyer noted that there is no easy answers to these issues, and that data is needed to help resolve. Prater inquired why there is no data available to look at, noting that this is a population of only about 400 coming in pretty much one at a time. Minzey indicated that data is not as simple as it would seem, indicating, for example, arrest data – the agency making the arrest may not be the same agency that is bringing the inmate in – inquiring who then is the arresting agency? He indicated the need to look deeper, noting that this takes time to extract all this data and put it into form for use.

Shea suggested that data be looked at correlating when the jail is officially overcrowded and the boarded out “spikes” – looking at bookings for that time and whether it seems higher than average.

Guenzel noted that booking data may be needed, stressing the need to recognize the “spiking” and to get to the reason/s for it. He noted that the BOC is currently in the middle of making recommendations for jail needs and they need this information.

Moran noted that everyone seems to be saying this is information that is needed, but that nobody has the personnel that can take this on. He indicated that perhaps the County should be centering on someone who can focus on this data – that perhaps somebody is needed, perhaps even full time, for a period.

J. Cedric Simpson shared that from his perspective, handling 80% or more of arraignments in the County, that they do not know what has occurred to cause these issues – but they must just respond, indicating that he would love to have the data and it would greatly help. He indicated that by order he has put into place measures to get people before the court as quickly as possible, with people now before the judge within 7 days where practical. He noted this schedule is as tight as they can make it; indicating that if they don't get answers to why these people are coming in and try to develop a way to work through the system, there will be major problems.

Bartolomei suggested using a part-time firm to help gather the data. Guenzel suggested that perhaps a CJCC subcommittee could work on the data issue, noting that we are now also looking at where arrests and bookings come from. Brown agreed that a committee needs to establish parameters regarding what is being looked for in reports.

V. Committee Updates

Definitions Committee

Dwyer indicated that they have a report not quite ready for distribution. He noted that this committee has trimmed down initial information to 17 items that they think are useful to measure – items that will make a difference. Another issue discussed was the frequency of reporting, anywhere from monthly to at-will; with a focus on quarterly reports as the recommendation. He indicated that methodology for the report is being dialogued, whether every case is tracked or a 10% sample. He indicated another issue of accountability for developing the report, noting that with so many people with pieces of this data it is a struggle they are currently working on. He stated that they are looking at the feasibility of data warehousing, and will propose a plan for that option.

Scott Patton confirmed the accountability issue, noting that this connects with the points made earlier about the need to have somebody that can gather and work on the data – potentially somebody from outside the County.

Moran inquired about the frequency of reporting data, noting that for problems like the “spikes” the County may need weekly data; wondering if it would be much harder to collect weekly. Dwyer responded that if a computer system can be developed correctly it should not make a difference; currently it is very labor intensive. (He noted an example where the charge that an individual is booked in on may not be what he/she is held for – and the AS 400 system does not get updated). He stressed the need to hire somebody to develop this computer system that not only understands computers but gets the dynamics between the systems and the larger picture.

Dwyer shared his appreciation for the support Scott Patton has given this committee, keeping them on track and focused.

Patton shared his vision of the two tasks needed: 1) gathering data to compare and 2) looking at this data and putting it into a useful form, analyzing and looking for trends. Moran noted that the definition problems are the same rather it is gathered quarterly or weekly. Dwyer noted that a lot of the definition problems have been resolved, noting that when parameters were put around some definitions it made the analysis much easier.

Shea indicated that it was discussed at the last meeting that data would be collected practically daily, with one individual taking data from two different systems and generating a quarterly report with parameters to be approved by the CJCC. He indicated that the recommendation would probably not be a census every quarter, studying every single person, but rather taking a 10% sample.

Dwyer noted that the Definitions Committee report will be to the CJCC by April with recommendations. Patton noted that he saw the development of report parameters as a different task, which might involve a lot of the same committee members; indicating that he would want a different “charge” to push forward for this. Shea suggested that a preliminary report (road map) could be ready for the next CJCC meeting. Guenzel stressed the urgency of this information, requesting that the Definitions Committee take this on and provide a preliminary report at the April CJCC meeting – noting that if there are other individuals that need to be involved (e.g., Police Chiefs) that they should be called upon also. Patton inquired if Under Sheriff Herb Mahony could bring Police Chief interests to the table, with Minzey indicating yes, that they have meetings on a regular basis.

Brown inquired about a correlation between a declaration of overcrowding ending and a spike in boarding out. Patton responded that one of the charges of the Public Safety and Justice Implementation Team is to look at this data, and that they are currently in the process of gathering this. He indicated that this data could be brought to the CJCC.

Prater shared his concern that the BOC is in the beginning of the planning process and it is critical to determine what the needs really are.

Sheila Blakney inquired on behalf of Barbara Bergman about arresting agency data, noting that her understanding is that it is not always in the AS400 Sheriff data system. She shared specific inquiries regarding whether sweeps are occurring, and if there are specific measures that are put into place when the jail is close to overcrowding. Brown shared that he regularly gets email from the jail inquiring about an individual who has been screened eligible for something, inquiring if he is he willing to impose an alternative to his original sentence. Blakney inquired who would be the best contact for Barbara Bergman to connect with to get further information about overcrowding; with Kirk Filsinger identified as the appropriate contact. Filsinger requested that Blakney have Barbara Bergman let him know what specific information is desired.

Pre-trial Services

Simpson indicated that they are moving along with Pre-Trial Services, with a few hiccups over the past month. He indicated that the Supreme Court issued an administrative order indicating how courts must protect Social Security numbers, which called for change in their pre-trial release form. He indicated he made these changes and the committee met and ratified these. Another issue that came up is making sure that they are reviewing everybody – logistical issues to make sure liaison officers and pre-trial services officers are interviewing everybody and getting to the magistrate as much of the verified data as possible – noting that it is because of the way people come into the system and arrive at court that causes these issues. One other issue is what is done with this data sheet, whether it is sealed or not; the Clerks office has a definite view of how this information should be handled and whether an order is necessary to seal it. He noted that Mark Ptaszek (14A1 District Court Administrator) is working with Karen Edman (Chief Deputy Clerk/Register) to resolve this issue. Shea inquired if this is for walk-ins also, with Simpson noting that walk-ins and add-ons were originally left out of the process, but that this has been corrected and they have been included lately.

VI. CJCC Goal Setting Proposal

Patton indicated that Friday, May 19th is currently scheduled for the CJCC Goal Setting Retreat (8:00am-12:00pm); noting this date looked good for most internal County calendars and requesting that those outside the County add it to theirs (location yet to be determined). Patton indicated that the following were invited to the last CJCC retreat: CJCC members, key staff, all judges and a few others such as elected officials. He inquired if there were others that should be invited (include Police Chiefs under elected officials?, invite all the BOC?).

Fuller inquired if those on the Police Services Steering Committee would see value added in having these folk attend. Moran requested further explanation of the retreat’s goal to assist in better determining participants. Patton provided a broad overview of the retreat’s intent, noting the traditional agenda would include: 1) Looking at previous year, what were major accomplishments, missed opportunities? Are things working? and 2) Looking forward, are there any trends that we see, any key issues that we think are import

to tackle, and prioritize. He noted that outside consultant Fran Alexander will be helping to facilitate and that Alexander and he will be interviewing Steering Committee members, indicating that a survey will be sent out to all those who are invited to participate in the retreat; with responses reported out at the CJCC. He noted the main outcome of the retreat is to identify the key issues and goals for the CJCC to tackle over the course of the next year. Moran indicated that given this retreat information he would recommend that representatives of the Police Services Steering Committee attend the retreat. Guenzel noted the value of this committee's attendance in terms of observation even more than in terms of participation, with Moran suggesting that they may be of value in prioritization also. Fuller requested that a complete list of those being invited be forwarded to CJCC members, so they may be aware of who is missing. Patton indicated that he would forward this information. Fuller requested an updated directory of CJCC members and contact info. Shea suggested that it may be more appropriate to let outside groups know when the retreat is taking place and to have them share their top concerns with the CJCC, rather than to attend the retreat – indicating this may give the CJCC more time to focus on what needs to be done.

Dwyer added one quick information item, noting that he learned yesterday that the MDOC is planning to close the Huron Valley Tech Violation Center by the year-end, converting it to another pod in the women's prison. He explained that this was another diversionary program option that is now closing

Archie Brown noted that Darlene O'Brien has been appointed by the Governor as the new Probate Judge.

VII. Adjournment

Wesley Prater moved for adjournment at 8:56 am.

Next meeting

The next CJCC Full Council meeting is scheduled for Friday, April 21, 2006, 7:30am at 200 N. Main. Patton indicated that this meeting time conflicts with the "Group of 180" meeting on that date, and may be rescheduled.