

# **Criminal Justice Collaborative Council**

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**Meeting Minutes  
December 15, 2006  
LLRC- Room A  
Ann Arbor, MI  
7:30am – 9:00am**

**Members Present:** Dan Dwyer (Trial Court Administrator), Wesley Prater (Board of Commissioners, Chair), Patrick Hughes (Department of Corrections Probation), Brian Mackie (County Prosecutor), Barbara Levin Bergman (Community Corrections Advisory Chair), Lloyd Powell (Public Defender/Defense Attorney), Kathy Reynolds (Executive Director, WCHO), Archie Brown (Circuit Court Chief Judge), Bob Guenzel (County Administrator), Mike Moran (Ann Arbor Township Supervisor) Ann Mattson (15<sup>th</sup> District Court Chief Judge), Barbara Ryan Fuller (Public Representative), J. Cedric Simpson (14A District Court Chief Judge), Paul Bunten (Chief of Police, City of Saline), Charles Pope (Magistrate-14B District Court), Dan Minzey (County Sheriff), Robert Brackenbury (Public Representative)

**Members Absent:** Lawrence Kestenbaum (Clerk/Register), John Shea (Attorney, Bar Association Representative)

**Others Present:** Ken Schwartz (Commissioner Elect), Kenita Montgomery (CJCC Intern), Kerry Sheldon (Management Analyst), Karen Lovejoy Roe (Commissioner Elect), Mark Ouimet (BOC), Uma Harithsa (Support Services), David Behen (Support Services), Ronnie Peterson (BOC), Leah Gunn (BOC), Renee Wilson (Community Corrections), Julie Chaffee (Community Corrections), Kirk Filsinger (Jail Commander), Herb Mahony (Undersheriff), Jeff Fulton (Sheriff Central Dispatch)

## **Call to Order**

In the absence of CJCC Chair Archie Brown, Commissioner Wes Prater called the meeting to order at 7:42am.

### **I. Approval of Minutes**

The motion to approve the minutes of the November 17, 2006, CJCC Full Council meeting was made by Bob Guenzel seconded by Wes Prater; approved by CJCC members.

### **II. Public Participation**

None.

### **III. Approval of 2007 Calendar**

Archie Brown arrived and chaired the remainder of the meeting. The motion was made to approve the 2007 CJCC calendar by Wes Prater, seconded by Bob Guenzel, and approved by the CJCC members.

### **IV. Jail Overcrowding**

Bob Guenzel briefed the committee on the jail overcrowding power point that was present to the Ypsilanti City Council on Wednesday night of last week. (Please see the CJCC website for the full report). Some points include:

Washtenaw County has been dealing with chronic overcrowding for quite some time now. Total average daily population hit all-time high with 405 inmates in August 2006. Level of boarding out also hit all-time high with 92 inmates in April 2006. Other highlights include:

- Operating the jail costs \$13.5 million per year

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- Funding comes from County general fund, accounting for 12% of budget
- Jail operations are projected to run \$1.4 million over budget for 2006, accounting for an additional 2% of the general fund
- The jail was projected to be \$2 million over budget, if the Sheriff and Administration had not issued a joint recommendation on June 7, 2006 to end the boarding out of inmates due to budget concerns.

Bob Guenzel indicated that there has been tremendous pressure from the City of Ypsilanti to resolve to jail management situation, and to reinstate boarding-out. Bob Guenzel offered that before the County reinstates the boarding-out policy, it should explore other venues first:

1. Continue and enhance alternative programming:
  - Community Corrections, pre-trial program, mental health diversion training, mental health treatment options, other initiatives (*more information available*)
  - Implement Sequential Intercept Team (*already begun in a limited capacity, saving 5,000+ jail bed days in 2006 and additional positions are scheduled to be posted in January*)
2. Implement Jail Management Strategy
  - Bob Guenzel believes that the County should fill the Jail Population Manager position. Bob Guenzel stated that he believed the consensus was that this position was necessary, but the agreement eventually fell through.
3. Exercise Sheriff's Statutory Obligation under Section 7 of the Jail Overcrowding Act.
  - Up to 30% reduced sentences for inmates
4. Participate in the Criminal Justice Collaborative Council (CJCC)
  - Engage in systems conversations to identify additional options to reduce overcrowding
5. Reinstate Limited Boarding Out of Inmates
  - Only effective when other actions are established
6. Expand the existing jail
  - Bob Guenzel stated that this is in progress (with the intent of fast tracking the process), and the BOC approved bond issue and will be selling those bonds in January. The next step is to hire an owner representative and architect.

Bob Guenzel stated that there are no easy solutions to this situation, and that these suggestions are strategies, not answers. Bob Guenzel stated that the County has to deal with the problem on the margins until it can find a long-term solution. The goal of the Space Plan is to address the County's immediate needs, jail capacity, and work toward future, incremental expansions.

Bob Guenzel offered a point of clarification for the group so that there would no longer be confusion on the matter: The BOC only approved the bond issue to complete Phase 1 of the Space Plan and all of those dollars are for the jail. Bob Guenzel reported that the big expenditures are for infrastructure and support service, but the jail needs a great deal of work because it is very archaic. The general consensus is that the jail infrastructure needs to be addressed before adding capacity.

Mike Moran inquired as to whether the costs for increasing personnel were included in the budget projections for the jail renovation.

Bob Guenzel reported that operating new jail pod will cost roughly \$1.3 million, and operating costs for the new pod probably will not be in the budget until 2008. Bob Guenzel stated that every time new beds are added, it cost an additional \$1million to operate, and those funds will come from general fund and police service savings.

Discussion ensued about the boarding out option. Bob Guenzel stated that on the surface it seems cheaper (\$35/jail bed day) than what it costs to house an inmate in our jail, but there are other things to consider:

- Cost and logistics of arranging transportation (to/from jurisdiction for sentence, court, release)
- Staff resources required to determine which inmates should – and could – be boarded

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- Staff resources required to identify jurisdictions with open beds, match inmates to jurisdictions, manage contracts
- Decreased access to justice: difficult to meet with attorneys, participate in programs
- Changing dynamics of our jail – other jurisdictions only accept well-behaved and healthy inmates

Barbara Levin Bergman asked Scott Patton to send a copy of the presentation via e-mail to the entire committee. Scott Patton replied that he would send out an e-mail.

Wes Prater stated that earlier data indicated that boarding out was roughly \$81/day, so what was the actual cost? Bob Guenzel replied that he did not have the data to answer the question at this time.

Mike Moran inquired as to whether CJCC participants had a statistical breakdown of how many pretrial offenders were in the system.

Archie Brown stated that the most current system data was a report prepared by November 7<sup>th</sup> jail data that was prepared by Rick Visel. Scott Patton agreed to forward that to the committee as well.

Rick Visel reported that his office was working to update the data, and that they were still doing system snap shots every Tuesday. Rick Visel stated, however, that the data only captures the driving charge, but doesn't provide the detail that Mike Moran was inquiring about.

Bob Guenzel inquired about what the current jail population was. Rick Visel reported that it 341 yesterday.

Barbara Fuller asked for clarification on the jail budget and expenditures: 1) has \$8 million in overtime been incurred since 2000, and 2) what would be the remedy for reducing this amount?

Bob Guenzel replied that the Sheriff's Department consistently goes over budget monthly, partly due to overtime and partly due to police services. Bob Guenzel indicated that the jail overcrowding situation may have escalated costs, however, some of these costs were anticipated (County had an additional \$800,000 in reserves). Bob Guenzel stated that much of the additional costs stem from police services overtimes (roughly \$2 million additional dollars), and that the Sheriff's staffing decisions could shrink these costs.

Dan Minzey reported that many of these costs stem from staffing/contractual obligations that are required by the Department of Corrections. Dan Minzey stated that if the current staffing model requires employee overtime or hiring/paying a new employee, and if this overtime is eliminated operating costs would escalate. Also, there are often unexpected emergencies that might require employees to take sick leave, incurring additional costs to the County.

Barbara Fuller asked several follow-up questions: 1) If costs are contractual, shouldn't the Sheriff anticipate these costs and budget for them, 2) Will the jail continue to be over budget every year, 3) what other areas have to be cut in order to absorb the additional jail costs, and 4) is there a point where it would be more cost effective to hire a new employee instead of paying for overtime, or is it within his discretion to deploy who works overtime?

Dan Minzey stated that his office budgets for these costs each year, but are consistently under-funded by the BOC by \$2 million. Dan Minzey stated that the Sheriff's department has taken an introspective look at their organization, and have added seven positions to bring down overtime costs; the department would be happy to reassess this matter. Dan Minzey also stated that it is not within his discretion to decide who works overtime given that those decisions are often contractually decided based on seniority.

Bob Guenzel offered that the County was able to absorb some of the jail costs with unexpected revenue from other areas, and also shift around funds in other reserves. Bob Guenzel indicated that the goal for 2006 was no significant cutbacks, and there was a balanced budget. However, jail operating costs, has put a strain on the rest of the organization. Bob Guenzel stated that the jail is mandated and has to be operated, and as we expand the jail, it will only be more expensive.

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Bob Brackenbury inquired about where does the burden lie for retrieving inmate back for hearing in a boarding out system?

Dan Minzey replied that the responsibility lies with arresting agency, and that this often requires overtime. However, other agencies offer to transport the prisoners.

Barbara Levin Bergman inquired that of the seven positions the BOC created, how many unfilled positions are on the jail side, and when does the Sheriff anticipate all those positions will be filled?

Herb Mahony replied that three of these unfilled positions are in Corrections, but the Sheriff just got approval to refill these.

Dan Dwyer asked if it was possible to chart the both the Sheriff Department's budget and expenditures take budget for the last 10 years to highlight certain trends in the budget that can be addressed to reduce costs.

Bob Guenzel stated the data is available to this. Scott Patton committed to getting this data to the CJCC.

Dan Dwyer inquired about what exactly limited boarding out was.

Bob Guenzel stated that the County has two years until it gets the 96 additional jail beds, so we need to work on other avenues to alleviate the situation. The BOC will not give a blank check for boarding out because the system seems to expand then. The BOC has approved boarding out for 20 beds and believes that the contracts need to be in adjacent counties. The BOC believe it to be more important to control the actual number of boarded inmates, rather than stipulate a dollar amount.

Mike Moran inquired as to whether there has been any litigation regarding the overcrowding with money damage being demanded? Mike Moran also asked if the County has looked at other jurisdictions to see how others have worked to solve overcrowding?

Lloyd Powell stated that the Public Defender's office would prefer that offenders not be boarded out. However, if boarding out is reinstated, there should be efforts to limit the offenders in pretrial status.

Bob Brackenbury offered that there appears to be tremendous value in hiring a jail population manager in that it would allow someone to focus solely on this issue, and inquired how limited boarding out would continue if a JPM was hired.

Barbara Fuller inquired about when the hiring of a JPM fell through.

Bob Guenzel offered his perspective on the situation and stated that initially, CJCC members were in agreement about the hiring of the JPM, and agreed that the JPM would be housed in the administration office for organizational purposes. However, the position would report monthly to the Steering Committee. Bob Guenzel stated that Scott Patton drafted a memo of understanding so that all parties could sign off to ensure that the JPM had access to the system or compromise anyone's authority. However, the Sheriff decided not to participate.

Dan Minzey stated that it is a statutory obligation that the sheriff runs to the jail, and he will not support a position that relinquishes this authority to anyone. Dan Minzey stated that he believes the person in the JPM position needs to work for the Sheriff and answer to the Sheriff.

Brian Mackie expressed frustration that there was agreement about the necessity of the JPM, yet not be able to fill the position because of a statutory obligation. Brian Mackie stated, however, that there needs to be consistency, and advised that officials not be selective in the statutes that they enforce (i.e., Sheriff not exercising section 7). Brian Mackie expressed that he was pleased more participants attended the CJCC meeting this morning, and offered that public participation be added at end of agenda. The motion was

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made to add public participation to the end of the agenda was made by Brian Mackie, seconded by Barbara Levin Bergman, and approved by the CJCC members.

Mike Moran asked whether the JPM position description indicated that the JPM would “run and manage” the jail, or just make recommendations.

Scott Patton explained that the job of the JPM would be to focus two core issues: 1) data analysis 2) make system recommendations to the Steering Committee on a monthly basis.

Mike Moran inquired as to what the objections to the position were.

Dan Minzey stated that his objection was with the actual title of the position.

Bob Guenzel stated that Scott Patton indicated this position was not an attempt to take away the statutory responsibility of the judges or the sheriff. Bob Guenzel stated that in order for this position to be successful, the JPM would need cooperation and access from the jail.

Dan Minzey asked what access does Bob Guenzel believe there hasn't been. Minzey offered that there is no need for a formal/written agreement on allowing access to the jail.

Bob Guenzel expressed that there needs to be a written commitment from the Sheriff before he asks a candidate for the position to relocate for the job or asking the BOC to earmark funds for the position.

Dan Minzey reiterated that he believed there did not need to be a formal, written agreement, and that he has never refused to meet with or give access to information to anyone in the past.

Bob Guenzel reiterated that he believed a written commitment (to jail access) is necessary because the Sheriff has refused to participate in and attend CJCC meetings in the past.

J. Cedric Simpson offered that the Courts could also view the JPM as an encroachment on the judges' power or as an interference. However, the Judges agreed to give access to data and systems, so that someone from an outside perspective could do analysis and make recommendations. J. Cedric Simpson offered that a JPM is not a threat because judges can always assert their authority. J. Cedric Simpson stated that it might be beneficial to have someone to take a step back and look at the process as a whole from the outside.

Dan Minzey stated that he believes the position has evolved from its original purpose. The original purpose was to facilitate the boarding out process because the sheriff's department lacked the staffing capacity. Dan Minzey stated that the JPM should answer directly to him in his chain of command.

Bob Brackenbury offered that he appreciates that the sheriff attended today's meeting, that it troubles him to hear that the sole problem with the JPM position is the use of the word manager, and that he thinks that a formal agreement (in writing) is need.

Barbara Levin Bergman offered that the JPM, from the BOC's perspective, is not usurping the Sheriff's power, but looks at the whole system to ask questions that a manager would ask. This position is not telling the Sheriff how to manage the jail.

Wes Prater stated that unless the issue regarding section 7 is resolved, none of this will make a difference. Wes Prater reported that Judge Morris will rule next week on this matter. Wes Prater inquired as to what would be the Sheriff's position would be in the Judge rules that the Sheriff must comply with section 7.

Dan Minzey stated that he believed that it was not appropriate to comment on pending litigation and will comment at a later date. Dan Minzey stated that he would be happy to look at this matter after the first of the year to reevaluate his position.

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J. Cedric Simpson offered that regardless of what the ruling is, the Sheriff should not feel bad about following the statute. Everyone has obligations and responsibilities that they do not always agree with (i.e. the judges' banding of offenders).

Charlie Pope offered that this CJCC is doing a commendable job, and stated that there is a light being shined on the judicial system. Charlie Pope stated that the only solution is more jail beds, but until that happens the system has to use every tool we have to work on the margins. Charlie Pope offered that the County will never garner public support for jail additions if the criminal justice players and public officials are quarreling together; they have to look unified and speak as one voice to get public support.

Archie Brown stated that the CJCC is an advisory body that discusses and makes recommendations to the BOC. In light of this, what is the Administration looking for from this body to do at this point given the recent discussion?

Bob Guenzel stated that the idea is to bring the system participants together to come up with some common understandings. Bob Guenzel stated that if the body has some recommendations on boarding out or JPM, the Commissioners would appreciate it, however, that would be up to this group. If the Steering Committee wishes to discuss this matter, it will become a future agenda item.

## **V. Administrator's Update**

Bob Guenzel reported that the BOC has decided to move forward with the jail expansion project and has established a project oversight committee that will begin to meet in January. Membership of this oversight committee includes:

- Chief Judge of 14A
- Sheriff
- County Administrator
- Chair of the Board of Commissioners
- Chief Judge of Trial Court

There was a request that the CJCC be notified of any challenges to the project and that the CJCC be kept posted on the construction project.

Barbara Levin Bergman inquired as to whether there was a commitment to participate from all the parties involved.

## **VI. Jail Diversion and Alternative Sanction Summary**

Scott Patton stated that he circulated via e-mail the Jail Diversion and Alternative Sanction Summary that was presented to the BOC in September. Scott stated that he was asking for feedback from the committee, and that the group should feel free to send comments via e-mail.

## **VII. Committee Update**

David Behen briefed the full council on the Data Systems committee's progress on two areas: 1) Dataspace and 2) SEARCH.

David Behen reminded the group that the CJCC put together a committee to report on jail data, to analyze all public justice data and information systems, and determine the most efficient way to integrate these systems.

David Behen reported that one of the very first tasks of the committee was agreeing upon definitions for the measures that the CJCC requested. Behen indicated that the project centers upon the various different measures of the average daily jail population and identifying common elements that would enable data analysis through a data warehouse. David Behen reported that the firm that was selected to complete this work is Dataspace and that the project is underway.

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David Behen then reported the committee is also working with SEARCH, a national nonprofit that analyzes the criminal justice information and statistical needs of each system, free of charge. David Behen reported that SEARCH is scheduled to work with Washtenaw County on January 24<sup>th</sup> and 25<sup>th</sup> to talk about business goals of this system. There would be a half-day, open session and the CJCC is invited to attend. David Behen stated that the 25th will be geared toward the technical side and charting a course of action for systems integration. This session will be extremely complex and will take a day a half to address.

### **VIII. Old Business**

Scott Patton recapped the various items that have been requested at today's meeting. He agreed to forward the following items to CJCC members and others present:

- Jail overcrowding power point presentation shared by Bob Guenzel this morning;
- November 7<sup>th</sup> jail population data provided by the Sheriff's Office;
- Alternative sanctions/jail diversion tactics summary presented to the Board of Commissioners;
- JPM position description;
- Sheriff budget history.

### **IX. New Business**

Leah Gunn offered that as a former member of the CJCC, one of the biggest challenges was the gathering of data. Leah Gunn stated that the County needs a JPM to help collect and analyze data, and that she urges the sheriff reevaluate the necessity of the position.

Karen Lovejoy Roe inquired as to whether there was another way for Dan Minzey to work with the judges to reduce sentencing, aside from section 7 of the statute. She offered that it would be of value to both the committee and public safety to find a way to release the non-violent offenders first.

J. Cedric Simpson stated that it is important to look beyond the title of the offense/charge, and at the whole individual; individuals may be more violent than they appear on the surface. J. Cedric Simpson stated that this is a very complex situation, and that he would be willing to provide any insight into the matter. He reported that all seven District Court Judges meet every month and have always been open to ideas for alternatives for release. J. Cedric Simpson stated that while there were some concerns about the Earned Release program in terms of equal protection issues, judges still saw potential in the program. However, he was not sure whether the Sheriff has put this program in place yet.

Charles Pope stated that the ability for the judges to determine who gets released is in Phase 1 and Phase 2 of the statute.

Ann Mattson expressed that she believed that she and her colleagues put offenders in jail that deserve to be there, although they may not appear violent on the surface. Ann Mattson stated that she and her colleague often use jail as a last resort, after employing several alternatives first.

Mike Moran offered that he wanted to thank Archie Brown for "gentle leadership" of a group that had potential to be very difficult.

Archie Brown reminded the committee that new leadership of the CJCC will be an agenda item for the January meeting. Archie Brown offered that he does not believe in a static leadership model, therefore he told the Steering Committee that he will not be seeking reappointment.

Mike Moran inquired about whether or not the group felt that LLRC was a more ideal meeting location; does the CJCC want to consider permanently changing the meeting location? It was recommended that the Steering Committee evaluate this.

Lloyd Powell moved to change the title Jail Population Manager to Jail Population Analyst, however, later withdrew his motion.

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### **X. Adjournment**

Archie Brown moved for adjournment at 9:04 am.

### **Next meeting**

The next CJCC Full Council meeting is scheduled for Friday, January 19, 2006, 7:30am. Location to be announced.