

**LOUISVILLE METRO CRIMINAL JUSTICE COMMISSION
JAIL POLICY COMMITTEE**

**Meeting Summary
Tuesday, July 27, 2021**

Members Present: Leo Smith, Co-Chair; Thomas B. Wine, Co-Chair, Eric Troutman (designee for Director Dwayne Clark); David Nicholson; Tara Boh Blair; Chief Judge Angela Bisig; Ann Schiavone Dyke (designee for Mike O’Connell); David Musacchio; Daniel Johnson; Chief Judge Annette Karem; Saulette Davis; Amy Hess; John Rees; Kelsey Doren; and Col. Josh Judah.

Staff Present: Faith Augustine

Guests Present: Erwin Roberts, Steve Durham; David Cutt; Dr. Brian Schaefer; Matt Golden and Travis Ragsdale (WDRB News).

I. Welcome/Call to Order

Leo Smith called the meeting to order and welcomed those in attendance. He reminded members that the last time the Jail Policy Committee met in-person was January 2020 – pre-pandemic – and expressed appreciation to everyone for participating virtually for more than one year. He gave a special welcome to Amy Hess, who is now serving as a citizen member on the committee and David Cutt, the new District Court Administrator. Tom Wine introduced Isiah Johnson who is assisting at the Office of the Commonwealth’s Attorney this summer. Members and guests introduced themselves.

II. Approval of the May 25, 2021 Meeting Summary

The summary of the May 25, 2021 meeting was unanimously approved as submitted.

III. Review of Jail Population Status – Eric Troutman, Chief of Staff

- a. COVID-19- Steve Durham
- b. LMDC Population – Eric Troutman
- c. State Inmate Population- Eric Troutman
- d. CCC Update – Eric Troutman

Leo introduced Eric Troutman and Steve Durham and asked them to provide an update on the status of COVID-19 in the jail, an update on the jail population, the state inmate population, and an update on the Community Corrections Center. Steve provided an update on COVID-19 in the jail. He reported that over 9,000 inmates have been tested and reported 496 positive tests. He explained that 474 inmates have recovered and been released. Currently, there are 22 individuals in-custody that are positive and are housed in medical isolation. He reported that in April the jail began administering vaccinations. To date, they have administered 1,162 vaccinations. As it relates to LMDC staff, 214 have

tested positive, seven are out now with five positive tests. In response to a question from John Rees regarding vaccinations for staff, Steve said the vaccination rate is improving. Matt Golden added that Louisville Metro Human Resources is requiring all Metro employees to provide proof of vaccination or submit a declination form and continues to encourage all employees to get vaccinated.

Tom Wine asked a question related to treatment of inmates that test positive for COVID-19, and Steve advised that 98% of inmates that tested positive have been asymptomatic. He noted that the medical provider in the jail, Wellpath, treats any symptoms that the inmate experiences, and only two inmates have been transported to a hospital for further treatment. Steve also reported that inmates can test every other day, and an onsite vaccination clinic is at the facility every week. He noted that inmate vaccinations are increasing, and inmates can receive the Moderna or Johnson and Johnson vaccine. He said they are working with Wellpath to be able to offer more vaccine onsite every day.

In response to a question from Leo related to mask requirements, Steve noted that all visitors are required to wear a mask, and inmates that are moved to permanent housing are provided with two cloth masks and encouraged to wear it in the housing unit. Inmates are required to wear a mask if they have any movement outside of the housing unit. Leo also asked about cleaning protocols especially in the courtroom within the jail. Steve noted that the common surfaces within the jail are cleaned and sanitized regularly. Judge Karem advised that she spoke with Dr. Sarah Moyer regarding reopening the jail courtroom, and she is touring the space today at 2:00pm. She noted that the viewing room that the public, lawyers and media access also must be considered, and noted that the ventilation in the courtroom is not optimal. She expressed concerns about the public bringing COVID into the jail. Leo reminded members that Probation and Parole and defense lawyers access the jail to visit inmates regularly.

Eric provided the population report. He stated that the daily count is running in the low-1600s and that the average daily population thus far in 2021 is higher than last year. The average daily population has increased steadily over the last several months from the high 1,300's to low 1,600's. He reported that the average length of stay is also trending upward, and for 2021 is running at 32 days.

Eric reported that the average state inmate population which includes controlled intake and Probation and Parole is 278 inmates. Data for 2021 shows that the average daily population for state inmates that are over 45 days is 174 and 104 Probation and Parole inmates. He noted that the state typically moved the under 45 days inmates quicker because controlled intake inmates typically present with mental health issues or other medical issues. He reported that DOC transferred 116 inmates in May and 66 in June. He advised that although state inmates are being transferred, the movement is not consistent. In response to a question from John, Eric reported that the state per diem is \$32 and the LMDC daily cost to incarcerate is about \$106.

Judge Bisig noted that she has signed individual court orders to have a state inmate that has been in custody over 45 days transferred to DOC and asked if the state inmates are

being transferred. If so, she suggested issuing a global judicial order to move a list of state inmates. Steve Durham agreed to follow up to see if the inmates were moved. Judge Bisig noted that the Circuit Court Judges recently met and discussed the overcrowding at the jail. Since jail bookings are increasing, she asked if there is any possibility to reopen the Community Corrections Center as it would provide a release valve. Steve noted that LMDC has not received permission from the Louisville Metro Public Health and Wellness to reopen the facility. He expressed concerns that if work release was reinstated that COVID could then be spread across the community and advised that LMDC and contractors that provide services within the complex (food service, medical services, etc.) are short-staffed and do not have capacity to reopen the facility at this point. Leo asked about the possibility of implementing work release out of the main jail complex. He noted that if Public Health lifted the order, then inmates could fill position at various businesses across the community that are experiencing staffing shortages as well. Steve noted that work release is better managed from home confinement.

John suggested that LMDC explore the possibility of contracting with Dismiss or Volunteers of America for additional bed space. He reported that they have beds available and are fully staffed. Steve responded that he would speak with Director Dwayne Clark about the suggestion. Daniel Johnson reported that to open one floor at the Community Corrections Center, 10 staff are needed. He supports reopening CCC in order to space inmates and staff out but acknowledged that staff are already working tremendous amounts of overtime now with low pay. Starting salary for a corrections officer is \$17/hour. Amy Hess asked Eric if transfers for out of county inmates has improved, and Eric responded that transfers are about the same. Leo asked about the number of inmates in custody serving a sentence, and Eric reported that there are about 200 inmates sentenced to jail time. John suggested that LMDC look to Dismiss or VOA to help with those inmates or for work release.

IV. Discussion: Out of County Inmates

Leo noted that according to data from LMDC there are a total of 28 inmates in custody being held on charges from other counties that are ready for transport. These inmates are arrested on warrants with pending charges in other counties, and because of a District Court policy of not arraigning individuals that have out of county warrants, defendants sit in the jail without a hearing until the Sheriff picks them up. He explained that 14 inmates have District Court charges and the other half have Circuit Court charges. Inmates are being held in custody from a variety of counties including Hardin, Bullitt, Franklin, Scott, Oldham, Marion, Mercer, Perry, Robertson, Shelby, and Spencer.

Steve explained the process that LMDC follows when an inmate with charges from another county is booked. LMDC records contact the Sheriff or jailer to let them know that the inmate is in custody. Leo reminded members that the Court Administrator is notifying the Judge from the originating county to let them know the inmate is in custody in Jefferson County. Steve noted that LMDC is not reimbursed for the days the inmate is in custody. In response to a question from Judge Karem, Steve said there was a lawsuit

filed that prohibits one county from billing another county for the jail costs. Leo advised that there have been several writs filed and granted by Circuit Judges to release the inmate including a recent case where an inmate had an outstanding marijuana case with a small bond. Judge Karem asked for the number of writs denied, and Leo said that he wasn't aware of any writs of habeas corpus having been denied. He noted there have been nine writs of habeas corpus granted by six different Circuit Court Judges. Six additional writs were filed but remanded since the inmates had been moved to another county or released from LMDC.

Leo advised that he and Tom Wine are sending a letter to Justice Keller, Kentucky Supreme Court proposing a rule change so there will no longer be a question if the District Court can deal with arraignments for out of county inmates. Tom noted that it is an ongoing problem that should be resolved. The practice also costs Jefferson County taxpayers money because the county holding the inmate bears the costs. Judge Karem said the District Court is looking forward to having it resolved.

V. Action Plan Updates/Follow-up items

- a. Pretrial Services Update – Tara Boh Blair
- b. MAT Planning Initiative – Steve Durham
- c. The Bail Project – Leo Smith

Tara reported that Pretrial Services is experiencing staffing shortages like many other agencies. She explained that of the 20 new employees that were hired on July 1st, only two remain as of today. Starting pay for Pretrial Officers is \$15.55/hour. She noted there is an AOC Committee that is reviewing statutory duties to see if changes can be made. She also noted that she is asking for pay increases or shift differential for weekend/3rd shift employees. Due to the staffing shortages, she asked for patience from stakeholders as they are doing their best with what they have.

Steve reported that Metro Corrections is increasing and expanding access to FDA approved medications for opiate use. In January, the jail partnered with the MORE Center to begin phase one of the project and is now providing methadone maintenance to individuals who were already connected to a provider in the community prior to arrest. He added that phase two of the project will provide expansion to buprenorphine maintenance and induction. These efforts have been secured through a grant received by the Criminal Justice Commission and will fund 1.2 million in MAT expansion.

Leo Smith provided an update on the Bail Project. The first office was opened in Louisville, KY in 2018 and as of July 21st has posted more than nine million dollars (3,000 cases) in bail over the last three years. He added that the Clerk's Office is holding \$3,927,890.25 that belongs to the Bail Project that has been posted for cases that are currently pending, and that approximately \$6 million dollars has been returned to the Bail Project for the revolving bail fund.

VI. Next Steps

Leo called on Dr. Schaefer to provide an update on the jail study funded by the Pew Research Center. Dr. Schaefer advised that the 10-year study is complete, and a copy of the Research Brief is included in the meeting packet. He reported that the full report will be released in the next week, and he encouraged the committee to use the report as a baseline to address jail population challenges. He stated that the study period does not consider the numerous challenges COVID-19 has created for jails and the broader criminal legal system, rather it provides a 10-year trend line for what the jail population, length of stay and bed day consumption looked like.

VII. Adjourn/Next Meeting

With no further business to discuss, the meeting was adjourned. The next meeting is scheduled for Tuesday, September 28, 2021 from 12:00 – 1:00 p.m. in the Crown Room at the Judicial Center.