

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

**Meeting Summary  
Tuesday, October 27, 2020**

**Members Present:** Leo Smith, Co-Chair; Erwin Roberts (designee for Tom Wine); Eric Troutman (designee for Dwayne Clark); Tara Boh Blair; Chief Judge Angela Bisig; Judge Julie Kaelin (designee for Chief Judge Anne Haynie); Mike O’Connell; David Nicholson; Daniel Johnson; Dan Fountain, Carla Kreitman; Karen Faulkner, Mark Zoeller, and Col. Josh Judah.

**Staff Present:** Faith Augustine, Jamie Allen, and Stacey Ayers.

**Guests Present:** Steve Durham; Ingrid Geiser; Anne Schiavone Dyke; Councilman Bill Hollander; Lauren Polston; Amy Hess; Chris West; Dr. Sarah Moyer; Ben Goldman; Rebecca Hollenbach; Dr. Brian Schaefer, and Dr. Thomas Hughes.

**I. Welcome/Call to Order**

Leo Smith called the meeting to order and welcomed those in attendance to the virtual meeting. He advised that due to the virtual format, formal introductions will not be announced but noted that CJC staff will mark members and guests as present for the record. He reminded attendees to stay on mute throughout the meeting unless presenting or speaking and advised that the audio/video controls are located at the bottom of the screen.

**II. Approval of the August 25, 2020 Meeting Summary**

The summary of the August 25, 2020 meeting was unanimously approved as submitted.

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

- a. LMDC Population Count
- b. State Inmate Population Update

Leo Smith introduced Eric Troutman and asked him to provide an update on the status of the jail population. Eric began with a follow-up from the last meeting reporting the jail demographic data. He stated that from January 2020 to the end of September 2020; 54% of bookings were white, 43% were black, 2% were Hispanic and 1% other. He reviewed a one-day snapshot of population data in October to review the in-custody demographics and the opposite was captured including 44% white, 53% black and 3% other. He reported that more white individuals are booked into custody than black individuals, but more black individuals stay in custody than white individuals. Eric reviewed the current population data reporting admissions were just under 13,000 for the year. He stated that approximately 17,000 bookings are projected out for the remainder

of 2020 making it the lowest number of annual bookings in LMDC history. He reported that the Average Length of Stay (ALOS) is 28 days. He clarified why the ALOS had dropped to 17 days at the last data presentation in August and explained that due to the increased number of protest arrests only staying in jail from three to five hours, the ALOS dropped significantly. He reported that state inmates are averaging around 290 a month, controlled intake is averaging 181, and probation referrals at 109. He stated that the state inmate population over 45 days hit a spike in August and after calls to the state, 115 people were moved.

Following discussion, Leo asked Eric how many inmates are over the 45-day mark and Eric responded that 180 are over that time period. Leo stated and Eric agreed that it costs approximately \$80 a day on average to house an inmate without medical concerns and that LMDC is receiving only \$30 a day on those inmates over the 45-day time period, requiring the city to assume the additional \$50 dollars per day per inmate. Eric stated that he spoke with the DOC Commissioner who agreed to move at least 25 a week to the Assessment Center but that the movement only happened for one week and he has not gotten any further response from State DOC.

Steve Durham followed up with a comment related to the demographic data that Eric presented reminding members that the black community only makes up 20% of the total population. He stated that there is a high disproportionate minority confinement of black people and poor people remaining in jail which is still a struggle in our community.

#### **IV. Pretrial Updates/Data**

Tara Boh Blair, Pretrial Services

Leo introduced Tara Blair and asked her to provide an update on Pretrial Services. Tara reported that the follow-up demographic information she was asked to present is not ready and will be presented at the next meeting.

#### **V. Examining Warrant Arrests in Jefferson County, Kentucky: 2006 to 2019**

Brian Schaefer, Ph.D., Indiana University- Southeast  
Thomas "Tad" Hughes, J.D., Ph.D., University of Louisville

Leo called upon Dr. Brian Schaefer to present the report, "Examining Warrant Arrests in Jefferson County, Kentucky." Brian thanked members for the opportunity to present and noted that the report is included in the electronic packet that was sent out in advance of the meeting. Brian thanked his co-researcher on the report, Dr. Tad Hughes and added that they have been working with the Criminal Justice Commission and colleagues at the Research Network for Misdemeanor Justice to develop the report to understand the impact of warrant arrests on the operations of the criminal justice system. He stated that the report systematically analyzes warrant enforcement and hopes to build on previous discussions by the committee. He stated that the data used to analyze warrant arrests is jail data; therefore, the analysis is only going to look at arrest related bookings. The report excludes people that are serving sentences, or state inmate transfers.

Dr. Shaefer reported that the first set of data that was analyzed included looking at the number of arrests by warrant status. Six arrest categories were created including new charges only (with no bench or fugitive warrant); new charges and a bench warrant; bench warrant only; fugitive warrant only; bench and fugitive warrant only; and other category. He stated that across the timeframe there was over 35,000 total arrests in 2006 that peaked to 40,000 in 2009 and declined to 27,000 in 2019. Across the timeframe there was a 24% decline in arrests.

Dr. Shaefer reported that the majority of arrests over the time period are for new charges that do not involve a bench or fugitive warrant. The percentage of these arrests range anywhere from 54% to 78% with the highest percentage in 2006. The second highest percentage of arrests was bench warrants only that range from 8% to 24%. The third was arrests for new charges and a bench or fugitive warrant and range from 12 to 19%. The other three categories are very low with under 5%. He stated that the different arrest patterns show a decline across the years, with the exception of bench warrant only arrests and then the other category. He reported that the next step in the analyses was to understand the arrest breakdowns by race. Bench warrant only arrests and bench or fugitive warrants arrests with new charges both account for the highest arrest rates for both black and white people across the years. He added that the figures show that there are racial disparities across the four types of arrests with black people being arrested more often. Although these disparities have declined across the study time period, he stated that they are still meaningful. He stated that further analysis was conducted looking specifically at bench warrant only arrest by race and the most severe charge associated with that bench warrant arrest. The figures show that misdemeanor offenses accounted for the highest rates for black people and white people. He stated that there are racial disparities and these differences with black people being anywhere from two and a half to three times more likely to be arrested across the categories.

Dr. Shaefer reported that analysis was conducted to examine the types of charges that were associated with bench warrant arrests. The data was broken down into categories of traffic, other drugs, property, crimes against society and persons. In 2019, probation violation was the most common charge associated with a bench warrant arrest, followed by drug paraphernalia. Dr. Shaefer reviewed the final analysis examined which included the overall impact of bench warrants on the criminal legal system. Between 2006 and 2018, there was a 24% decline in arrests. In looking at the 2019 data, Dr. Shaefer reported that 40% of arrests involved a warrant. He stated that depending on the analyses, disparities range from 1.5 times to 3.3 times higher for black people regarding arrest compared to whites. He stated that colleagues of the Research Network for Misdemeanor Justice from the University of Missouri St. Louis have put together a very similar report for St. Louis. This will allow for a cross-site comparison of warrant enforcement in both jurisdictions. Dr. Shaefer stated that when the report is complete he will share it with the committee. Dr. Shaefer concluded his presentation and opened the remaining time for questions.

Mike O'Connell thanked Dr. Shaefer for all the important work the research team has provided to the Jail Policy Committee. He reminded members that while the data will not

reflect the most recent change, he reminded the committee that over a year ago, he decided not to prosecute any possession of marijuana cases (up to one ounce or one ounce and below). Since the research team has examined the data he asked Dr. Shaefer if through the deep dive analysis that was conducted if they could make any broad recommendations to assist the decision makers in the community to improve the findings in the report. Dr. Shaefer stated that one of the challenges that has been brought up numerous times in committee meetings is understanding what the nature of bench warrants are for and why they occurred. He stated that the answer to that question leads to potentially different policy solutions. Finding a way to get that data becomes very difficult, and this report just looks at the initial patterns of enforcement. He stated that the research team received funding from Pew Charitable Trusts to conduct a study with the jail on length of stay and some of the questions related to warrant arrest, and then subsequent length of stay, will be included in that report in the coming months. He stated that the report will help inform some of the practices that could be changed. The team will also track how COVID has impacted the court system but it's just hard to know what changes will be maintained.

## **VI. Action Plan Updates/Follow-up items**

- a. Strategies to Slow the Spread of COVID-19 in the Jail
  1. Inmates for Review to consider for early release
  2. Circuit Court Inmates to Report to DOC after sentencing

Leo Smith introduced Dr. Sarah Moyer, Chief Health Strategist for Louisville Metro Public Health and Wellness and asked her to lead the discussion on strategies to slow the spread of the COVID-19 in the jail. Dr. Moyer thanked members for allowing her and other members of the LMPHW team to participate in the meeting. She emphasized that Louisville Metro is currently in the red with COVID and that the jail continues to put all of the best CDC practices and guidelines in place. She thanked the Jail Policy Committee for the continued focus on putting policies into place to reduce the jail population and stressed the importance of getting the population below 1,000 inmates since the risk of exposure is increasing every day. Rebecca Hollenbach followed up and thanked the jail for their work in separating and quarantining newly arrested inmates coming into the facility. She stated that the ideal solution would be to open an additional bed space to spread inmates further apart, but due to staffing shortages the jail has not been able to open CCC. She reminded members that reviewing low risk offenders as a matter of policy is the next best route to slow the spread in the jail and suggested reviewing those inmates in the moderate risk category. She further stated that if there are ways to put policies in place around shifting from cash bail to home incarceration or surety bonds it would continue to reduce the population and slow the spread of COVID.

Leo reminded members that the current jail population was at 1,223, according to the most recent population review sent out by Director Clark. He reminded members that at the last meeting there was some discussion that if we could get the number around 950 the jail would be in a better position to protect staff and inmates from COVID. He asked Steve to provide a general idea overview related to COVID and the population. Steve explained that the jail is taking a look at the jail population and the COVID numbers five

days a week. He reported that the jail is doing surveillance testing of the inmate population to prevent and slow any outbreak. When a positive case is identified medical practices are deployed for both the individual and the housing unit. He reported that the jail has tested over 3,800 individuals which is approximately one third of the population that has been booked since the beginning of the year. Approximately 380 individuals over that time period have tested positive.

Of those that have tested positive, Steve stated that 97 individuals remained in custody and three are currently in custody and are on medical isolation. He stated that for the first 14- day window of arrest, medical staff encourages COVID testing; however, medical staff cannot make people take the test. He reported that there is a lot of resistance to testing as some individuals do not like the look of the test or the discomfort. Eric Troutman developed a plan to separate those newly arrested from the remaining population that includes a 14-day isolation. Steve thanked the stakeholders for their consideration in enhancing the use of home incarceration and other non-jail options.

Leo opened the meeting up to suggestions that members may have to continue to address the jail population. He reminded members that at the last meeting LMDC agreed to supply a list for the Public Defenders and Commonwealth's Attorney to review. They have been doing that however he suggested a recommendation that was made to consider a weekly task force made up various agencies, who would be willing to look at some of the specific individuals that LMDC might put at a higher priority. Ingrid stated that they have been looking at the lists that Metro Corrections has provided, and she stated that she does think the reviews have made an impact.

Daniel Johnson reported that the CDC worked with the Cook County, Illinois jail and they opened a separate 500 bed facility for inmates that tested positive. He noted that Metro Corrections has staffing challenges and is unable to reopen CCC. He stated that when an inmate tests positive, if there is space available, they are put into isolation. Judge Kaelin added that she reached out to Metro Corrections related to opening CCC back up. Steve reiterated that due to the staffing challenges, CCC will remain closed, and will continue to look at methods that can be used to manage the population. He suggested that instead of an individual-level review, the committee think of a policy shift in terms of how bond can be secured for individuals who are arrested and use that as a moving forward benchmark.

Judge Angela Bisig reminded members that at the last Jail Policy Committee meeting members had suggested that whether some relief could be given in Judges agreeing to sentence a defendant but then wait to commit them until a state facility had space available. This would save bed space for some of those inmates that are in Metro that are just waiting for a transfer. She raised the issue with the Circuit Court Term and a majority of the judges agreed that it would really depend on the case. She stated that some judges were willing to consider that in certain low-level cases but that they were not in agreement on releasing someone who was already in custody on a high-level charge.

## **VII. Action Plan Updates/Follow-up items**

- a. The Bail Project – Leo Smith
- b. Arraignment Court Update – Ingrid Geiser

Leo stated that in the interest of time updates related to The Bail Project and Arraignment Court will be presented at the next meeting.

### **VIII. Adjourn/Next Meeting**

Leo thanked members for attending. The next meeting is scheduled for Tuesday, January 26, 2021 from 12:00 – 1:00 p.m. With no further business to discuss, the meeting was adjourned.