

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

**Meeting Summary
Tuesday, January 26, 2021**

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

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

Guests Present: Steve Durham; Mane Martirosyan; Chris West; Lauren Polston; Anne Schiavone Dyke; Dr. Brian Schaefer; Dr. Thomas Hughes; and Dalton Godbey.

I. Welcome/Call to Order

Leo Smith called the meeting to order and welcomed those in attendance to the virtual meeting. He announced that Tom Wine, Co-Chair, had a conflict and that Erwin Roberts will fill in. He welcomed Judge Annette Karem in her new role as Chief Judge for the District Court. 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 October 27, 2020 Meeting Summary

The summary of the October 27, 2020 meeting was unanimously approved as submitted.

III. Presentation: The Impact of COVID-19 on Crime, Arrests, and Jail Population
Jamie Allen, Criminal Justice Commission

Leo introduced Jamie Allen from the Criminal Justice Commission and asked her to present a preliminary analysis of local crime and jail population data to assess the impact of COVID-19. Jamie thanked the Jail Policy Committee for the opportunity to present. She reported that in late-October Tom Wine sent the Commission an article in The Crime Report related to declining jail populations around the country that could be endangered due to court delays. She called attention to a copy of a report from the Safety and Justice Challenge (SJC), included in the electronic packet, that was cited in the article. She stated that the SJC hired the JFA Institute to look closely at jail population and crime statistics in six jurisdictions across the country where they have funded jail reforms over the last several years. The report looked at preliminary pre-and-post COVID-19 imposed restriction data across the sites specifically as it relates to impact on crime;

impact on arrests; and impact on bookings, jail population and LOS. After reading the report she stated that the CJC had interest in looking at local data and using the report as a template to replicate many of the charts that the JFA Institute published.

Jamie reported that data presented isn't necessarily going to explain the "why" as to the increases and decreases in crime, arrests and jail population. While the presentation will outline specific mitigation actions that were put in place, the goal is to generate discussion amongst stakeholders to answer some of those important questions. She reported that the data in the presentation will be put into a report and will provide a benchmark to start looking at the data moving forward and to assess where the jail population is at its current state, and hopefully identify what mitigation factors may be maintained post-pandemic.

Jamie began the data presentation by explaining that beginning in March 2020, jail populations throughout the country began to decline as a number of restrictions were imposed on the public to help mitigate the spread of COVID-19. The key questions across the country that have been raised include what major factors have reduced jail populations, and what has been the impact of jail population reductions on public safety. She reviewed limitations to the data and stated that the data is only comparing two years (2019 and 2020), and that prior years of data are required to identify long-term trends.

Jamie indicated that the first dataset provides an overview on COVID-19's impact on crime; specifically, Part I UCR reported crimes from LMPD that represent calls for police service where an incident report was taken. She noted that LMPD's Crime Report data is broken down into both the UCR Part I and Part II crimes. This plays an important role because the data can be dissected according to the FBI's Uniform Crime Reporting Program which looks at crime data in these two categories (Part I and Part II). The UCR Program collects data about Part I offenses in order to measure the level and scope of crime occurring throughout the nation which is analyzed in the dataset. These offenses include Assault, Homicide, Robbery, Sex Crimes, Burglary, Motor Vehicle Theft, Theft/Larceny, and Vehicle Break-in/Theft. The data was broken out into total Part I crime and further broken out in Part I Violent and Part I Property-related crime. The data shows similar seasonality trends in both years for both Part I categories including an increase beginning in late-Spring and over the Summer months. She further stated that Post COVID-19 imposed restrictions numbers are slightly higher in those months for violent crime; and close or slightly lower for property crimes.

In looking specifically at Part I Violent Crime (Assault, Robbery, Sex Crimes, and Homicide) after restrictions were imposed, there was an increase in Assault, Robbery, and Homicide. There is a decrease in reported Sex Crimes. She stated that specifically in the JFA report, researchers cited Apt and Rosenfield in their recent analysis of homicides in 64 cities, found an overall decline through May 2020, but warned there may be an uptick due to a lack of resources to address violence and increased social unrest due to the highly publicized murder of George Floyd in Minneapolis. She further noted the highly publicized Breonna Taylor case locally and stated that the data shows an uptick in homicides in July through October 2020.

Jamie reported that the next set of data looks at the impact on adult arrests; specifically, the number of arrests booked into Metro Corrections. The data first looks at all offense data and arresting agencies by month for all of 2019 and through November 2020. The Pre-COVID-19 imposed restrictions data for 2020 trends remain consistent. She stated that after March, when restrictions are imposed, there is a significant drop in both felony and misdemeanor arrests. She reported a 52% decrease in total arrests from February 2020 to June 2020 (51% decrease felony arrests and a 53% decrease misdemeanor arrests). She noted that some of the reasons that can be attributed to the decrease is that more people are staying home; there was a major shift in priorities regarding arrests to keep people out of the jail; and LMPD self-initiated activity declined to keep officers safe and healthy. She further stated that LMPD limited the types of calls that officers would respond to including non-violent criminal incidents that typically required a police report. Reports of other incidents such as theft, non-injury accidents, criminal mischief, and some burglary incidents were directed to LMPD's service center for citizens to make a telephonic report or it led to a request to fill out a state form. She noted that mitigation efforts included that some low-level bench warrants were cite and release.

Jamie reported that additional data was analyzed to look at the impact on arrest and takes a deeper dive into Part I Violent and Property offenses. The data shows similar trends in arrests for both Part I categories (violent and property-related), but that arrests declined with the greatest reduction in property-related crimes.

She reported that the last set of data that was analyzed looked at the impact on jail bookings, the jail population, and length of stay. The data shows a significant decline in jail bookings after COVID-19 restrictions were imposed. She stated that the reduction in bookings in turn caused the jail population to go down. In comparing February to June 2020, she reported that jail bookings dropped by 52%, while the jail population dropped by 34%, and the declines have stayed down. She reported that the data shows that the LOS has gone up significantly. She reminded members that LOS is an average, and because arrests are down and other mitigation efforts by the court were put in place to reduce the jail population, most of the people incarcerated are those assessed at a higher public safety risk. Those assessed a higher risk require longer incarcerations, thus driving the LOS up. She stated that reasons for this could include that the courts are not operating at full capacity and cases aren't getting processed as quickly; state inmates are still being held much longer than the 45-day mark; and fewer arrests are being made for misdemeanor crimes.

Jamie stated that in addition to the mitigation actions taken by LMPD to reduce the number of arrests, other mitigation actions were put in place by Metro Corrections, the courts, and other stakeholders to reduce the spread of COVID-19 throughout the jail population. These actions include expansion of Administrative Release by the Supreme Court; warrants for non-payment of fines were cited and released; an increase use of ROR for failure to appear warrants and contempt of court on civil matters; a review and release of lower risk pretrial defendants through agreement from the JCAO, CAO and Public Defenders Office; shock probation release by way of a special docket; and suspension of community releases from the Community Corrections Center.

Jamie presented a chart that looked at the composition of the jail population and how it has changed during the pandemic. The snapshot compared two days in 2020; February 28, 2020 and June 29, 2020. She stated that there was a 39% difference in the total jail population; 46% difference in the LOS; and a 44% difference in the number of females being held in February vs June. In looking at race across the two snapshots she stated that there was a 27% difference in the number of black inmates being held; 16% in the number of Hispanic inmates and 38% difference in white inmates being held. In looking at legal status 29% of the population after restrictions were put in place was state inmates. She reported that in comparing the HIP population, there was no significant increase in the use of HIP post-COVID and that the court relied more on physical release from custody rather than using HIP as non-jail option.

In summary, Jamie stated that post-COVID-19 restriction data on impact on crime show the numbers of reported Part I crime are slightly higher for violent crime; property crimes close or slightly lower. The data related to the impact on arrests show significant decline in misdemeanor and felony arrests; of those more serious felony offenses, the larger decrease was in Part I property-related crime. The impact on bookings, jail population and LOS show that post-COVID restriction data show a significant decline in the number of jail bookings; this decline in bookings, along with other mitigation actions put in place, in turn lowered the jail population and significantly increased LOS.

Jamie reported that researchers from the JFA Institute, after looking at data for the six sites, concluded that the ability for jails across the country to maintain their current jail population will depend on several things including the extent that mitigation policies can be sustained; how quickly the courts begin to fully open and begin to address the mounting problem of court delays for the detained population; and how soon COVID-19 restrictions on social and economic activities are lessened or removed. Researchers concluded that without taking these things into consideration the jail population could approach their pre-COVID-19 levels within several months. Jamie opened the floor to questions.

Steve Durham stated that in addition to the data on LOS, another influencing factor may include that a number of individuals are being held on out of county warrants and are not being released at any fast rate. He stated that many counties are not coming to pick up their inmates, leaving them in the jail on hold. He added that another factor that influences the length of stay is the number of state inmates waiting to be transported to the Kentucky Department of Corrections (KYDOC). He stated that although Metro Corrections has a good partnership with KYDOC, many facilities throughout the Commonwealth have their own challenges with COVID-19 that is preventing them from taking individuals into custody that are ready to be transferred from local jails.

Lt. Colonel Josh Judah stated that it is worth taking a deeper dive into the data pre-and-post May 28, 2020 when the significant protesting began in Louisville. He stated that what LMPD saw in their data trends was an acceleration of officer activity and arrests in April, and then that acceleration was interrupted due to the widespread protests that began in

late May. He suggested that the CJC take a deeper dive in the Part I Violent data and look specifically at the non-fatal shooting data which is where LMPD has seen the largest increases. He stated that COVID-19 has reduced almost all the other interpersonal crimes, including the property crimes, but added that the reduction in LMPD activity and the increase in violent crime traces back to May 28th. He suggested two discussions about where we are right now and include the incidents that happened in May through the protest activity.

Mike O'Connell thanked Jamie for the presentation and stated that by the looks of the data, a pandemic lowers the local rate of minor criminal offenses for various reasons but raises violent crime. In addition to those things, he stated that there are other parallel incidents going on in terms of gun violence. He reminded members that there were mitigation efforts that had to be done in the jail for health reasons, but that from a statistical basis it will be interesting to see what the data will look like in late 2021 and early 2022. He stated that at some point down the road, and some months ahead, the pandemic will be over and that the report will be somewhat irrelevant. He noted that it will be helpful to look at the local mitigation efforts that were put in place over the last 11 months to see what efforts can continue as the committee looks for ways to reduce the jail population.

IV. 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 stated that the 2020 data being presented is still in the validation process and may change over time. He reported that there were a little over 16,000 admissions for 2020 making it the lowest the jail has ever seen. There was a significant drop in the ADP, ending the year with a total of 1,300 average daily population. The average length of stay (ALOS) for the year is at 29 days which is significantly higher than previous years. He reported that there are 282 state inmates and approximately 173 controlled intakes in the jail. There are 110 Probation and Parole inmates in the jail which has increased. He reported that in December the number of inmates going over the 45-day mark was alarming, but that he has seen some of them getting conditionally discharged and released from Metro Corrections.

Leo stated that the most recent population report that was sent out by Director Clark indicated that zero state inmates had been sent out to local jails or the state prisons over the past week. He asked Eric if there had been communication or any information from the KYDOC regarding whether or not the jail can reasonably expect any expedited movement to a state facility in the near future. Eric responded stating that he does not expect any expedited movement due to the number of positive COVID-19 cases throughout the state prison facilities. He added that Metro Corrections is managing better than any jail across the state, and he does not want to strain the relationship with KYDOC. Leo reminded members that he and Tom Wine sent a letter to Commissioner Crews asking if the KYDOC could take steps to address the movement of state inmates. In

addition to concerns related to the tremendous amount of money that it is costing the local jurisdiction, there are separate safety concerns related to inmates and officers.

Following discussion, Mike stated that the movement of state inmates has been a persistent problem prior to the pandemic, and that the pandemic is just adding an additional stressor to the management of the population. He asked Eric if he knew how many inmates were sitting in local jails statewide that should be in a prison bed. Eric stated that roughly half of the state inmate population is housed in a jail bed across the state and that the majority of jails house Class C and D felons. He added that these jails have contracts with KYDOC to house prison inmates to increase revenue. He stated that at least 12,000 to 13,000 are in a jail bed statewide.

Judge Bisig asked Steve if the staff at Metro Corrections had been vaccinated for COVID-19 or had a date been set for scheduling vaccinations. He stated that the staff at the jail are much like the community at large, and although many staff are interested in getting the vaccination, there is not as many interested in receiving the vaccination as they had hoped. He reported that the vaccinations start tomorrow and that approximately 25% of Metro Corrections staff have indicated they have an interest in getting it. He stated that inmates will be included in tier three to get the vaccination and he isn't sure what the process is going to look like just yet. Judge Bisig stated that the percentage of staff interested in the vaccination is very discouraging. She asked if any information or education materials had been distributed to inform the employees about the benefits to receiving the vaccine versus the risks. Steve stated that Daniel Johnson, FOP President, was on the WebEx and met with management and Metro Corrections staff to explain the benefits of vaccine to all members. He added that they hosted a live WebEx call with Dr. Moyer from LMPHW and she answered the common questions and concerns that staff had about the vaccine. For those that were unable to attend the live call, he noted that the call was recorded that the WebEx link was made available to all employees.

Following discussion, Daniel Johnson concurred with Steve stating that 20-25% of Corrections and EMS staff are interested in the vaccine. He added that one of the concerns is that vaccine is so new, and that many members are going to wait until the second or third version of the vaccine where it is more refined. He stated that another concern is that it doesn't stop the spread of the virus or does not stop an individual from contracting the virus, it only lessens the symptoms. He reported that a third of the staff have already tested positive. Several members have experienced severe symptoms, but the majority have little to no symptoms and only knew that they tested positive because they tested through surveillance testing. Steve added that the vaccine is 95% effective so there is only a very small window of individuals who may get the vaccination and have an opportunity to be exposed. He stated that the jail will continue to advocate and encourage individuals to get the vaccine.

V. Pretrial Updates/Data

Tara Boh Blair, Pretrial Services

Leo introduced Tara Blair and asked her to provide an update on Pretrial Services. Due to time constraints she explained that she had two updates to provide. The first update was data that she requested during the meeting related to Steve's point about the large number of inmates being held for out-of-county warrants. She stated that 191 inmates were being held and waiting to get their cases heard. She noted that some have both Jefferson and other county cases, but some are waiting on only other county charges.

Next, Tara called attention to the snapshot included in the electronic packet related to the risk level of inmates being held in Metro Corrections. She reminded members that the data is a snapshot in time and includes data on inmates that were booked into custody prior to 6pm on January 19, 2021 and were still in jail (pretrial) at 5:30am on January 20, 2021. She stated that the data was broken down by risk level and totaled 834 individuals. She reported that 365 individuals (44%) were scored as high risk. The next highest category included 351 inmates in moderate risk (42%), and the remaining 118 inmates in the low risk category (14%). She reported that the risk levels were then broken down into classes of charges to determine why individuals were being held. It was reported through the data that 72% (85) of the Low Risk Population has a Class A or B Felony; 18% (21) of the Low Risk Population has a Class C Felony; 8% (10) of the Low Risk Population has a Class D Felony; and 2% (2) of the Low Risk Population has a Class A Misdemeanor which are both domestic violence-related. She reminded members that through administrative release pretrial can release non-violent, non-sexual Class D's. In closing, Tara thanked the District and Circuit judges in Jefferson County who have done everything possible to release as many people that can be released safely.

VI. Action Plan Updates/Follow-up items

- a. The Bail Project – Leo Smith
- b. MAT Planning Initiative – Steve Durham
- c. Arraignment Court Update – Ingrid Geiser

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

VII. Adjourn/Next Meeting

Leo thanked members for attending. The next meeting is scheduled for Tuesday, March 23, 2021 from 12:00 – 1:00 p.m. With no further business to discuss, the meeting was adjourned.