

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

**Meeting Summary  
Tuesday, December 4, 2018**

**Members Present:** Tom Wine, Co-Chair; Dan Goyette, Co-Chair; Councilman Brent Ackerson; Mark Bolton; Jim Cabral; Tracy Dotson; Chief Judge Brian Edwards; Chief Judge Anne Haynie; Julie Kaelin; Angela Bilewicz (designee for Carla Kreitman); Mike O'Connell; David Musacchio; and Michael Wilmes (designee for David Nicholson); and Lt. Ted Eidem (designee for Chief Steve Conrad).

**Staff Present:** Kim Allen, Jamie Allen and Faith Augustine.

**Guests Present:** Leo Smith; Ingrid Geiser; Matt Golden; Chris West; Eric Troutman; Don Griffin; Dr. Brian Schaefer; Dr. Tad Hughes; Martin Baker; Mane` Martirosyan; Kayla Brady; and Katrina Helmer.

**I. Welcome/Call to Order**

Dan Goyette called the meeting to order and welcomed those in attendance. Members and guests introduced themselves.

**II. Approval of the October 30, 2018 Meeting Summary**

The summary of the October 30, 2018 meeting was unanimously approved as submitted.

**III. Presentation:**

**Jail Policy Committee Report to the Metro Council Budget and Public Safety Committees**

Daniel T. Goyette, Defender Emeritus

Thomas B. Wine, Commonwealth's Attorney

Dan reminded members that a presentation to the Metro Council Budget and Public Safety Committees on the Jail Policy Committee Action Plan is scheduled for Thursday, December 6<sup>th</sup> at 4:00pm. He invited all committee members to attend the presentation and advised that a copy of the meeting agenda is in the meeting packet. Today's meeting will be spent reviewing the presentation to solicit any feedback and comments from members. He began the PowerPoint presentation by reviewing budget amendment Part 1, B, 2.b. included in Metro Council Ordinance No. 108 Series 2018, requiring the Criminal Justice Commission to convene a group of system stakeholders to develop recommendations, including a legislative agenda for the 2019 session, and identify metrics related to jail crowding. He noted that as its first action in response to the amendment, the Jail Policy Committee membership was expanded to include the five new members/designees delineated in the ordinance. Although the Jail Policy Committee was meeting every other month during the first half of the year, the Committee established a monthly meeting schedule beginning in July 2018.

Dan noted that like numerous jurisdictions across the country, Louisville Metro has been grappling with jail crowding for three decades and based on that experience, there have been a number of lessons learned. The Jail Policy Committee, along with various groups that have worked on jail population management issues over the years, have always focused first and foremost on public safety. The committee has pursued strategies to reserve finite jail space for individuals who pose a risk to the community while developing non-jail options for individuals who can be safely managed in a less restrictive manner. Dan reviewed the water barrel analogy and explained that the jail population is ultimately determined by two variables: the number of bookings (jail admissions); and the average length of stay (average period of incarceration). Since both variables can be heavily influenced by the police, courts and the legislature, jail crowding is best understood as the result of policy decisions made across the entire criminal justice system; it is not created solely by the action of any one entity. Jail crowding is therefore not a correctional problem, but rather a system problem and jail population management strategies must be tailored to the needs of the individual jurisdiction.

Dan noted that jail crowding is not a problem to solve, but a condition to manage. Any effort to manage the jail population requires the participation and commitment of all criminal justice stakeholder agencies and representatives. Since no single entity has the authority to mandate implementation of jail population management strategies, the committee has been successful in building consensus to implement agreed-upon and data-driven strategies.

Dan reported that key indicators include: jail admissions, average length of stay (ALOS), state inmates, pretrial release rate, violent A/B felony cases, and warrant admissions. Dan highlighted data from the Louisville Metro Department of Corrections (LMDC) which shows that beginning in 2009, there has been a continual decrease in the number of annual bookings or admissions through 2016. He noted that there was a slight increase in 2017, and 2018 admissions are trending at 1,950 and projected to be 33,215 at years end. In response to a question from Dan, Director Bolton reported that the 3rd floor 126-bed unit above LMPD headquarters has remained closed since July 19<sup>th</sup>, and costs \$183,000/month to operate. Data shows that the average daily population was at an all-time low of 1,794 in 2015. Since that time there has been a continual increase in the average daily population mainly due to the increase in the number of state inmates.

Dan explained that although the average length of stay reached a low of 13 days in 2009, it has gradually increased reaching a high of 25 days in 2017. Mark added that the ALOS in 2018 has decreased by 3 days as a result of the Kentucky Department of Corrections moving state inmates quicker. He reminded members that an increase in the ALOS by just one day equates to the addition of 83 inmates. Mark added that the DOC institutional count has decreased from about 25,000 in September to 23,800 as of last Tuesday.

As reflected in data provided by the Division of Pretrial Services, Administrative Office of the Courts, there has been a 10% decrease in the pretrial release rate in the specified time period from 2013 – 2014 to 2016 – 2017 in Jefferson County. The pretrial release

rate increased by 5% in 2017 – 2018. Based on data provided by the Division of Pretrial Services for 2014 – 2015 to 2015 - 2016, Jefferson County has witnessed a nearly 12% increase in serious felony cases. From 2015 - 2016 to 2017 - 2018, there has been a 21% decrease. Data shows that when the violent felony A/B cases decline the pretrial release rates increase. Dan highlighted data from LMDC that illustrates that a significant number of jail admissions include a warrant. Although jail admissions have consistently declined since 2009, about 50% of all admissions include a bench warrant at the time of arrest. In 2017, there were 6,195 bench warrant only admissions for warrants issued out of District Court. According to data provided by the AOC, there were 46,256 District Court Criminal Bench Warrants issued in 2017.

Based on the knowledge that effective efforts to manage the jail population require the implementation of multiple strategies, the Jail Policy Committee identified priorities for action that fall under five primary categories: (1) Transfer of State Inmates; (2) Bail Reform/Pretrial Detention; (3) Arraignment Court Initiatives; (4) Bench Warrants; and (5) Home Incarceration Program Pilot. Dan reminded members that the identified items are currently in different stages of development and implementation with some in the early planning stages and some already in process. Legislative agenda items identified through the process of implementing the action plan were coordinated with the work of the Commission's Legislative Committee.

Dan briefly highlighted items included in the Action Plan approved by the Jail Policy Committee. He noted that according to KRS 532.100, state inmates shall be transferred to the state institution within 45 days of final sentencing. He noted that data provided by LMDC that shows that on November 12, 2018, LMDC was holding a total of 310 state inmates with 84 having been incarcerated at the jail in excess of 45 days. As included in previous committee recommendations issued in 2016, the Jail Policy Committee has encouraged working closely with KDOC to transfer state inmates. LMDC's ability to work with KDOC has continued in a positive direction.

Another item included in the Action Plan is to encourage use of non-financial conditions of release, and to expand the use of Pretrial Services Monitored Conditional Release (MCR) Program. Data from Pretrial Services shows that non-financial release accounted for 85.66% of all releases from 7/1/2018 – 10/30/2018 (84.60% in the same 4-month period in 2017). Dan noted that Pretrial Services began a pilot project on October 29, 2018 for felony offenders that are held pretrial in jail on a Circuit Court case. As of November 16<sup>th</sup>, the Pretrial Assessment Reentry Treatment Services (PARTS) program consisted of three participants with 11 referrals pending.

Dan reminded members that The Bail Project began in mid-May and the first bail was paid on May 10, 2018. He reported that through November 30<sup>th</sup> there have been 399 defendants bailed out of jail by The Bail Project, and that data shows an 88% return rate. There have been 419 formal referrals from a Public Defender, 65 community referrals, and 15 informal referrals from lawyers/jail/clerks, etc. He noted that \$120,000 has been refunded/recycled to the Bail Project. In response to a question from Ingrid Geiser, Tom noted that Pretrial Services is tracking the re-offense rate. Councilman Ackerson commented that he would like to see additional efforts made at the local level to push bail reform and not wait on the state to address. Tom noted that the data

collected through The Bail Project is a way to show that it works at the local level. Julie suggested disaggregating the data by judge to see how individual judges are determining bail and if defendants are returning at the same rate as someone released ROR. Tracy Dotson reminded members that its not about how many individuals are in jail, but more about if the right individuals are in jail.

Dan reminded members that the Metro Council provided funding for the addition of positions for an Assistant County Attorney and an Assistant Public Defender at Arraignment Court to expedite resolution of low-level cases. Data shows that from 8/1/17 – 10/31/18, there have been 2,208 cases resolved in Arraignment Court involving 1,451 defendants. It is estimated that 2,036 jail bed days were saved resulting in a cost savings of \$144,556.

Dan highlighted efforts included on the Action Plan to reduce the number of active bench warrants. He highlighted that in partnership with the Jefferson County Attorney's Office and the Circuit Court Clerk's Office, the Jefferson District Court entered an Amended General Order to set aside the warrant, dispose of any open charges, waive any fines or costs, and update disposition as dismissed. The first purge resulted in 2,202 traffic cases being dismissed. Discussions are underway to expand the initiative to review cases with active warrants for violations and class B misdemeanors. He also noted that stakeholders are considering having a Warrant Amnesty event in Spring 2019. Julie Kaelin suggested including data related to the number of court notices issued as well. Mark reminded members of the passive booking process implemented in Davidson County, Tennessee to reduce the number of individuals booked into jail for a bench warrant.

He reminded members of an action item related to the Home Incarceration Program through a new HIP Work Group that was created. The overall goal of the HIP Work Group was to move away from the current "one size fits all" approach to supervision and create levels of supervision based on risk. The work group drafted Supervision and Sanctions Grids, and pilot participants are assigned to a supervision level (low, moderate or high) based on the Risk Level Score(s). Chris West reported that DRC participants are receiving supervision or sanctions for violations in accordance with the recommended levels in the grids. Data is collected on all project participants to evaluate both the overall process and individual outcomes. HIP/DRC staff received in-service training on the proposed pilot and the rationale for the recommended supervision and sanction grids. The pilot began November 1, 2018 with individuals court-ordered to the Day Reporting Center (DRC) and are being monitored by HIP as a requirement of DRC participation. As of November 12, 2018, there were 22 DRC participants on the HIP program: 12 High Risk, 5 Moderate Risk, and 5 Low Risk. Since implementation two tested positive for marijuana use. They were issued a written warning and a notice was sent to the court. Prior to pilot, violators would have been automatically returned to jail. Dan added that while it is recognized that the operation of the HIP for DRC participants is somewhat different than the general HIP population, it is believed that the pilot can provide valuable data to inform broader implementation of the new models within the larger HIP population.

Dan also highlighted additional efforts of the Jail Policy Committee including the

creation of a Felony Case Processing Work Group and the Law Enforcement Assisted Diversion (LEAD) pilot. The Case Processing Work Group was convened to review felony case processing data and conduct a system "self-diagnosis" in an attempt to better understand what factors are influencing felony case processing trends. Work Group recommended creation of the PARTS program (previously mentioned) to serve pretrial felony offenders and is currently researching issues related to the discovery process in criminal cases. The Louisville Law Enforcement Assisted Diversion (LEAD) Pilot was funded by the Bureau of Justice Administration in October 2017. The LEAD Pilot will incorporate a new pre-booking diversion option for individuals suffering from substance abuse disorders involving opioids. Police will exercise discretionary authority at the point of contact to divert 50 individuals from designated police beats in the Russell and Portland neighborhoods into a community-based, harm-reduction intervention. Grant components include aggressive case management, treatment, and access to a range of community support services. To date there have been 2 LMPD referrals to LEAD, with one active client engaged in the program. Division One officers have identified several LEAD candidates for referral, but due to their medical status (medically fragile) at the time of police contact, or not having probable cause to make an arrest, police deemed them ineligible.

Dan highlighted the Jail Policy Committee's Legislative Recommendations. He reminded members that the legislative agenda items identified through the process of implementing the action plan were coordinated with the work of the Commission's Legislative Committee. The Jail Policy Committee proposals were approved by the MCJC Legislative Committee and the Commission Board at the October 18th Board meeting. These proposals along with the other proposals supported by the Commission Board were sent to the Jefferson County Delegation and House and Senate Judiciary Chairs on November 7, 2018 for consideration. Legislative items include 1) Bail reform - reform Kentucky's pretrial release system to eliminate financial bail in most circumstances and implement a clear and convincing evidence standard for pretrial detention; 2) require automatic check for outstanding warrants prior to renewal of driver's license or professional certifications; and 3) proposal to permit police officer discretion to cite versus arrest for bench warrants on low-level charges

Dan thanked members for their feedback on the presentation and advised if they have any additional information or data that they believe should be included to please provide it to Faith Augustine. Dan also recognized Kim Allen who is retiring at the end of December since this is her last Jail Policy Committee meeting.

#### **IV. Adjourn/Next Meeting**

Dan thanked members for attending. The next meeting is scheduled for Tuesday, January 28, 2019 from 12:00 p.m. – 1:00 p.m. With no further business to discuss, the meeting was adjourned.