

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

**Meeting Summary
Tuesday, February 20, 2018**

Members Present: Dan Goyette, Co-Chair; Tom Wine, Co-Chair; Eric Troutman (designee for Mark Bolton); Tara Boh Blair; Jim Cabral; Chief Judge Anne Haynie; Judge Brian Edwards; Patrick Hoerter (designee for Mike O'Connell); Dan Fountain; Carla Kreitman; David Musacchio; Kevin Smalley (designee for David Nicholson); and Colonel Mike Sullivan (designee for Chief Steve Conrad).

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

Guests Present: Judge Sean Delahanty; Angela Bilewicz; John Bradley; Ginny Lee; Stephanie Reio; Dan Fountain; Karen Collins; Mane` Martirosyan; Kayla Brady; Martin Baker; and Katrina Helmer (WDRB News).

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 November 28, 2017 Meeting Summary

The summary of the November 28, 2017 meeting was unanimously approved as submitted.

III. Review of Jail Population Status

- a. LMDC Population Count – Eric Troutman
- b. State Inmate Population Update – Eric Troutman

Dan Goyette asked Eric Troutman to provide a brief update on the status of the jail population. Eric reported there are 1,987 inmates in jail today. He directed attention to a chart entitled "Admissions by Year" and reported that the total admissions for 2017 were 32,500. The average daily population for 2017 was 2,221, the highest ADP on record since 2004. Eric also noted that the average length of stay in 2017 was 25 days, which has increased by two days from 2016 and five days from 2015.

Eric reported that the average number of state inmates in the jail awaiting transfer in 2017 was 346. Eric noted that LMDC has seen significant movement from the Kentucky Department of Corrections (KDOC) in the recent transfer of state inmate. He noted that in 2017, there were typically about 200 state inmates held in jail longer than 45 days, and currently there are only 25 inmates. He explained that the KDOC opened roughly 400 new beds by reclassifying existing beds and adding bunks to existing space, and

will open three private prisons in 2018.

- IV. AOC/Pretrial Services Updates – Tara Boh Blair**
- a. Jefferson County Administrative Release Protocol
 - b. Bench Warrant Administrative Release Pilot
 - c. Automated Court Notification System

Mr. Goyette introduced Tara Blair to provide updates on several items related to Pretrial Services. Tara began by reporting that the Administrative Office of the Courts awarded a contract to Marlimar Interactive to develop the Court Notification System. Tara brought attention to a handout in the meeting packet entitled “Jefferson County Pretrial Services Outcome Data for CY 2017” and reported that data indicates that 52% of the 44,583 cases included a non-financial release. Of the 23,077 non-financial releases, 11% or 2,454 were released by Pretrial Services on administrative release. Tara reported that 48% or 21,506 had a money bond set, and of those 31% or 6,708 obtained release. Data indicates that the pretrial appearance rate for all defendants is 66%, while the “no new arrest rate” is 91% and the “appearance rate” is 72%.

Tara reminded members that the Supreme Court approved the Bench Warrant Administrative Release Protocol which was implemented in Jefferson County on August 1, 2017. She asked Stephanie Reio to provide an update for Jefferson County. Stephanie reported that from August 1 – December 31, 2017, 30% of all the individuals released had a Failure to Appear warrant issued.

V. Committee Follow-up items

- a. Chief Justice’s Commission on Racial Fairness in the Courts – Dan Goyette/Tom Wine

Dan Goyette announced that the Chief Justice’s Commission on Racial Fairness in the Courts is hosting a forum entitled “Pretrial Justice: What’s Bail Got To Do With It?” on February 21, 2018 at the Louisville Bar Center at 2:00 p.m. The forum is open to the public.

- b. Pretrial Data Population Breakdown Follow-up – Jamie Allen

Jamie reminded members that at the November 2017 meeting, she presented a breakdown of the jail population on October 18, 2017, and separated the jail population into four “buckets”—Circuit Court Only, District Court Only, Family Court Only and Multiple Courts, and court specific data was then broken out by pretrial and sentenced status. She called attention to the handout entitled “Jail Population Breakdown” in the meeting packet, and noted that there were three follow-ups requests resulting from the District Court data presentation. Jamie recalled that Susan Ely asked if the pretrial defendant data included bench warrants and domestic violence charges. Jamie reported that the arrest type table which includes bench warrants was not included in the data extract; however she called attention to a handout in the agenda packet which

showed that the top three charges for District Court Pretrial defendants include assault, probation violation, and possession of drug paraphernalia. The top three charges for District Court Sentenced defendants include probation violation, assault, and violation of a Kentucky EPO/DVO. In response to a follow-up question from Mark Bolton, Jamie explained that the defendant with a length of stay of 366-730 days in District Court Pretrial was a KCPC hold.

c. CSH/KCPC Competency Evaluations Update – Jamie Allen

Jamie reminded members that at the November 2017 meeting, Director Bolton noted that there were several inmates in custody awaiting competency evaluations, therefore staff was asked to do some research to get a better understanding of the process. Jamie reported that Central State Hospital (CSH) is an 80-bed facility that administers psychiatric evaluations to court-ordered defendants being held for misdemeanor offenses (pursuant to KRS 504). There is no active waiting list. She reported that once CSH receives the order from LMDC, it has 30 days to schedule the evaluation. Evaluations are typically scheduled within two weeks or one to two weeks prior to the expiration of the order. Defendants are transported to CSH (by LMDC transport officers) for evaluation unless there is a history of extreme violence, in which case the CSH physician will administer the evaluation at LMDC. Once the evaluation is complete, the physician has 30 days to complete the required documents and to submit to the court. A hearing is scheduled and the doctor will appear in court.

Jamie reported that the Kentucky Correctional Psychiatric Center (KCPC) is a 72-bed facility (60 male/12 female beds) that administers psychiatric evaluations to court-ordered defendants being held for felony offenses (pursuant to KRS 504). There is currently a five to six week waiting list to get a defendant evaluated. Due to the waiting list, a triage nurse from KCPC determines the order in which evaluations are scheduled. Defendants who are in need of an emergency evaluation are given priority status and placed at the top of the list. KCPC evaluations are administered by two physicians and are primarily conducted at LMDC. In difficult cases, defendants are transported to KCPC for evaluation. The average length of stay for transported cases is three weeks. If a defendant (who has been transported to KCPC) refuses to take the medication prescribed by the evaluating physician, he/she is returned to LMDC to await a court hearing on forced medication. Once the forced medication order is received, the defendant is transported back to KCPC. In April 2018, the number of available beds at KCPC will be reduced from 72 to 61 for five months due to necessary maintenance, and the wait period for evaluation will increase beyond the current five to six week timeframe.

Jamie reported that CSH and KCPC expressed concern regarding Jefferson County's requirement for the physician to appear in-person to present the evaluation findings at court hearings. Kentucky counties, with the exception of Jefferson County, typically allow physicians to testify via teleconference. It was noted that the Jefferson County backlog is due in part to doctors having to make in-person court appearances on these cases. In response, Judge Anne Haynie reported that she conducts a number of

hearings via teleconference, but must facilitate an agreement between the prosecutor and defense counsel to agree to do so. Judge Haynie indicated that while the technology is available in the courtrooms for testimony by teleconference, there are sometimes difficult cases that necessitate having the doctor to testify in court. She asked Jamie for additional information related to the District Court inmate who remained in custody for 368 days on a CSH hold. Jamie agreed to pull additional information from Xjail on that inmate. Judge Delahanty noted that he was not aware of the technology, but understands that the court is burning up physician time. Judge Haynie noted that the technology is available for interpreter services and it works seamlessly. She suggested providing a headset and other necessary equipment to CSH and KCPC for the physicians to use in court hearings. She suggested contacting Beth Lucas at the Administrative Office of the Courts for additional information. Steve Durham noted that the CSH/KCPC holds is a difficult population, and he is working with Leo Smith, Public Defender's Office to see if their office represents any of the inmates. He noted that there may be legal issues with conducting an evaluation remotely. Judge Edwards advised that he is not opposed to a witness testifying remotely. Staff agreed to contact AOC for additional information regarding existing technology capabilities.

d. District Court Case Flow and Calendaring Study Update – Judge Anne Haynie

Judge Haynie reported that the Supreme Court applied for a grant to bring back the National Center for State Courts to address the criminal courts; however the civil courts restructure will be rolled out on June 4th. She explained that there will be a demo for the Matterhorn system, a virtual courts system, on February 27th at 3:00pm. She reported that there are a large number of individuals that pay court costs and fees via installment plan, but if they do not pay, they receive a "Release if Pay" warrant. Matterhorn is a mobile-based program that will send alerts when an installment payment is due. She noted that Matterhorn is relatively new technology, but the state of Michigan has adopted it fully. Judge Haynie announced that AOC renegotiated the VitaCheck credit card fee to 1%.

e. HIP Work Group Update – Steve Durham

Steve reminded members that the HIP Work Group is developing a risk-based approach to supervision under the Home Incarceration Program and how program violations are managed. He reported that currently all HIP offenders are monitored with GPS units using a "one size fits all" supervision approach. He called attention to a draft supervision grid in the meeting packet, and indicated that the Work Group would like to use the PSA risk assessment to determine supervision levels for HIP referrals. Since the AOC legal office advised that the Rules of Criminal Procedure (RCr 4.08) permit only the prosecutor and counsel for the defendant to have access to the PSA risk assessment questions, level and score, LMDC is recording the risk assessment information during Arraignment Court. After the draft supervision grid is completed, the Work Group will create a grid for how to manage violations. Judge Delahanty noted the importance of judicial overrides, and emphasized that judges have to be confident that

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HIP is fully staffed and working effectively. Stephanie Reio offered to provide the Pretrial Services Monitored Conditional Release Responses Matrix to the Work Group. The next HIP Work Group meeting is scheduled for Wednesday, March 7th.

f. Arraignment Court Update – Judge Sean Delahanty/Susan Ely

Patrick Hoerter reported that since August 1st, there have been 757 cases resolved in Arraignment Court involving 514 defendants. Eric Troutman estimated that approximately \$36,000 has been saved, and H3 has been closed since January 10, 2018.

VI. Adjourn/Next Meeting

Dan Goyette thanked members for attending. The next meeting is scheduled for Tuesday, March 27, 2018 from 11:30 a.m. – 1:00 p.m. With no further business to discuss, the meeting was adjourned.