

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

**Meeting Summary
Tuesday, March 27, 2018**

Members Present: Dan Goyette, Co-Chair; Erwin Roberts, (designee for Tom Wine), Co-Chair; Mark Bolton; Tara Boh Blair; Jim Cabral; Judge Sean Delahanty (designee for Chief Judge Anne Haynie); Chief Judge Brian Edwards; Mike O’Connell; Dan Fountain; Carla Kreitman; David Musacchio; David Nicholson; John Rees; and John Bradley (designee for Chief Steve Conrad).

Staff Present: Kim Allen and Faith Augustine.

Guests Present: Thomas Harvey; Paul Culbertson; Eric Troutman; Leo Smith; Kevin Smalley; Chris West; Steve Durham; Susan Ely; Ginny Lee; Stephanie Reio; Karen Collins; Mane` Martirosyan; Kayla Brady; Martin Baker; Don Griffin; and Chris Sutter (WDRB News).

I. Welcome/Call to Order

Erwin Roberts called the meeting to order and welcomed those in attendance. Members and guests introduced themselves.

II. Approval of the February 20, 2018 Meeting Summary

The summary of the February 20, 2018 meeting was unanimously approved as submitted.

III. Review of Jail Population Status

- a. LMDC Population Count – Director Mark Bolton
- b. State Inmate Population Update – Director Mark Bolton

Erwin Roberts introduced Director Mark Bolton and asked him to provide a brief update on the status of the jail population. Director Bolton 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, and the ADP for 2018 thus far is 2,024. Director Bolton explained that the reduction in ADP in 2018 was due to the Kentucky Department of Corrections (KDOC) transferring state inmates. He noted that the Average Length Of Stay (ALOS) in 2017 was 25 days, which has increased by two days from 2016 and five days from 2015. The ALS in 2018 thus far is 23 days, and Director Bolton noted that LMDC anticipates that the ALS will continue to decrease if the KDOC continues to transfer state inmates. The Home Incarceration Program ADP in 2018 thus far is 737, the highest ADP on record since 2004.

Mr. Bolton reported that the average number of state inmates in the jail awaiting transfer in 2017 was 346 – thus far in 2018, the total is 280. He noted that LMDC has seen significant movement in the last six weeks from KDOC in the transfer of state inmates. He noted that in November 2016, there were roughly 200 state inmates held in jail longer than 45 days, and currently there are only 28 inmates. The KDOC opened approximately 400 new beds by reclassifying existing beds and adding bunks to existing space, and may open three private prisons in 2018 if funded in the FY 19 state budget.

Judge Delahanty noted the increase in ALS, and asked if it is attributable to felony cases in Circuit Court. Judge Edwards responded that delays can occur in Circuit Court, but he has not seen any recent data. Eric Troutman noted that although the ALOS is calculated on all inmates in the jail, he could conduct further analysis on the jail data. Tara Blair reported that case processing data is available on the AOC website for each county. She added that a data request could be submitted to AOC to drill into the data further and agreed to submit a case processing data request to AOC. Kim reminded members that in November 2017, Jamie Allen 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. It was determined that of the 2,158 inmates, 1,007 or 47% were in custody for a Circuit Court Only case. Of the 1,007 Circuit Court Only inmates, 772 were being held Pretrial, 29 inmates were sentenced to jail time, and 95 inmates were being held pretrial and had cases sentenced to jail time. Kim also recalled that the Laura and John Arnold Foundation system overview in 2013 found that the median number of days to process a felony case was 376 days, which exceeded the standard established by the National Center for State Courts. This finding led to the establishment of the Felony Prosecution Pilot Project that the LJAF funded from November 2014 to the fall of 2016.

- 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

Erwin Roberts introduced Tara Blair to provide updates on several items related to Pretrial Services. 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 noted that 40% of all administrative releases in Jefferson County are for bench warrants, and there has been no increase in the failure to appear or re-arrest rates. Tara reported that the internal pilot test for the Court Notification System will begin next week. Three counties will begin testing during the week of April 9th, with a goal to “go live” on May 1st. She noted that the automated message will include language for defendants to contact their attorney if they have questions. She asked members to provide any changes or suggested revisions on the automated message to her before the internal testing begins. David Nicholson suggesting adding a link to the website for defendants to check case status, and Dan

Goyette agreed. Tara noted that the pilot will begin with all pretrial releases, and can be expanded.

V. Committee Follow-up items

a. The Bail Project - Dan Goyette

Dan Goyette announced that Louisville has been selected as a site of The Bail Project, and introduced Thomas Harvey. Thomas Harvey reported that The Bail Project is a new national non-profit that plans to establish 40 sites in local jurisdictions to release a total of 120,000 individuals over the next five years. The Bail Project will post bail for individuals that have a cash bail under \$5,000, and will provide supportive services to ensure they return to court as scheduled. Support services include transportation to court, text message reminders, etc. The Bail Project will also facilitate referrals to housing and treatment. The local effort will be housed at the Metro Public Defender's Office. In response to a question, Mr. Harvey reported that Louisville will join other existing sites including St. Louis, Detroit, Tulsa and The Bronx. He reported that in the first six weeks of operation in St. Louis, 90 people were bailed out of jail and only two failed to appear in court. He explained that a revolving bail fund is used, and the goal is to rotate use of the money two to three times a year.

Mr. Harvey reported that a total of \$30 million has been committed to the fund. In response to a question from John Rees regarding eligibility, Mr. Harvey explained that in addition to a cash bail set at under \$5,000, eligibility criteria will include the Public Safety Assessment (PSA) and failure to appear rates. The Bail Project staff will interview defendants to assess available supports. Mr. Harvey advised that defendants will not sign a contract and no interest is charged. In response to a question, Mr. Harvey explained that in order to provide transportation for defendants to court, The Bail Project may purchase a van to transport, purchase bus tickets or pay for Uber.

Mr. Harvey indicated that while there is always a risk of loss with this type of project, the robust Pretrial Services system and additional supports provided should mitigate the losses. At the present he is working to better understand court processes related to failure to appear warrants, revocations, and bond forfeitures. In response to a question from Erwin Roberts regarding specific goals for Louisville, Mr. Harvey noted that the goal is to bail 100 individuals out of jail per month in each site. Mr. Harvey reported that additional information can be found at www.bailproject.org. In response to a question from Mike O'Connell regarding donors, Mr. Harvey cited several donors, but advised that most donors wish to remain anonymous.

Mark Bolton asked Mr. Harvey if a cost-benefit analysis was available, and Mr. Harvey explained that since the project started in January a cost analysis is not yet available. He mentioned that research conducted in New York showed that if people were out of jail 24 to 48 hours after arrest, they remained employed and could proceed with their lives. In response to a question from Tara, Mr. Harvey said that they plan to start operations in April and be fully operational in mid-May. He noted that Kentucky is the

first jurisdiction in which the project has been implemented that has a 24 hour/7 day week pretrial release operation. He noted that operations for the project are typically 9:00am – 5:00pm, but may be able to be adjusted.

b. CSH/KCPC Competency Evaluations Update – Jamie Allen/ Paul Culbertson

Faith Augustine reminded members that Jamie Allen presented an overview of the CSH/KCPC psychiatric evaluation process at the February meeting. Jamie had reported that CSH and KCPC expressed concern regarding Jefferson County's requirement a physician to appear in-person to present evaluation findings at court hearings, which could result in delays. All Kentucky counties, with the exception of Jefferson County, have teleconference capabilities for physicians to testify. Judge Haynie had suggested reaching out to AOC for additional information on current technology related to teleconferencing. Faith noted that staff contacted AOC Information and Technology Services and invited Paul Culbertson to the meeting to discuss the current technology available to the courts and any upgrades needed to have all court rooms connected.

Mr. Culbertson began by informing members that AOC has used video technology for 20 years. He said video technology is typically used in Arraignment Court, but several courtrooms (Courtrooms 101, 102, 202, and Family Court Division 8) in Jefferson County are already equipped. He discussed a recent pilot project implemented in Jefferson County involving interpretation services, but indicated that the pilot runs on an AOC data network. He noted that in order to expand video technology to all Jefferson County courtrooms, a dedicated data circuit is needed. In other counties with video conferencing technology, AOC provided the hardware, software, and wiring which costs about \$20,000, but the Fiscal Court pays for the monthly costs associated with the data circuit. Based on a recent quote from Spectrum for the data circuit with the required bandwidth, it would cost about \$200/month. Ninety counties and 42 jails across the state have video conferencing available in the courtrooms. As it relates to physicians from CSH or KCPC testifying, he noted that they would receive an email invite to participate. The technology is HIPAA compliant with appropriate security and encryption, and interpretation services could be added if needed. Kim Allen reminded members that Judge Haynie asked staff to follow-up with AOC at the February meeting, therefore it is up to the committee to determine how they wish to proceed. Dan Goyette expressed reservations about the virtual technology, but agreed to appoint a subcommittee to discuss the issue further and report back at the next meeting.

c. 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 noted that a revised draft supervision grid will be reviewed and voted on at the April 11th HIP Work Group meeting, and presented to the Jail Policy Committee on May 22nd. After the draft

supervision grid is completed, the Work Group will create a grid for managing program violations.

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

Susan Ely reported that from August 1, 2017 through mid-January 2018 there have been 724 cases resolved in Arraignment Court involving 497 defendants. She advised that most cases resolved are for failure to pay restitution or failure to complete court-ordered treatment. In response to a question from Mark Bolton, Susan indicated that although a cost-benefit analysis has not been completed at this point, it would not be very difficult to calculate cost savings. Steve Durham asked if cases involving failure to pay fines and fees were included, and Judge Delahanty noted that typically those cases are given credit time served.

Judge Delahanty advised members that a reorganization of District Court is scheduled to begin on June 4th. As part of the reorganization, two judges will be assigned to Arraignment Court. The judges will rotate between Arraignment Court and a Civil Court docket. He reminded members that he agreed to serve in Arraignment Court through December 2018, and noted that although the reorganization is scheduled to begin June 4th, most District Court Judges support postponing implementation of the reorganization until January 2019. He suggested that it may be helpful for Justice Minton and Justice Hughes to hear from committee members that also support postponing the implementation. In response to a question from Mark Bolton, Judge Delahanty advised that the judicial assignments will be rotated annually, but if the reorganization begins June 4th, the next rotation will be January 2020. Mike O'Connell reminded members that the National Center for State Courts issued a comprehensive report that was critical of the operations of the entire District Court, not just Arraignment Court, and cautioned members about lobbying for changes solely in Arraignment Court.

David Nicholson reported that he met with Justice Minton and Justice Hughes recently about the reorganization. He reminded members that after the 2011 District Criminal Court reorganization was complete, the Civil Courts were supposed to be reorganized as well, but that did not happen. He clarified that the proposed changes for June 4th impact Civil Court Dockets only; however, Arraignment Court is included in the Civil Court reorganization structure. He advised that additional funding may be available to support a reorganization of the Criminal Courts. Mr. Nicholson suggested that the Planning and Coordinating Council (PCC) review the proposed reorganization and expressed frustration with the rollout scheduled for June 4th. Judge Delahanty believes that the proposed reorganization would be on the agenda for discussion at the April 25th meeting of the PCC.

VI. Adjourn/Next Meeting

Erwin Roberts thanked members for attending. The next meeting is scheduled for Tuesday, May 22, 2018 from 11:30 a.m. – 1:00 p.m. With no further business to discuss, the meeting was adjourned.