

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

**Meeting Summary  
Tuesday, September 28, 2021**

**Members Present:** Leo Smith, Co-Chair; Thomas B. Wine, Co-Chair, Director Dwayne Clark; Kelsey Doren; David Nicholson; Chief Judge Angela Bisig; Mike O’Connell; David Musacchio; Daniel Johnson; Chief Judge Annette Karem; Mark Zoeller; Amy Hess; John Rees; and Col. Josh Judah.

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

**Guests Present:** Eric Troutman; Steve Durham; Martin Baker; Ann Schiavone Dyke; Mane Martirosyan; David Cutt; Dr. Brian Schaefer; Ben Goldman; Matt Golden and Chris West.

**I. Welcome/Call to Order**

Tom Wine called the meeting to order and welcomed those in attendance. He advised that due to rise in recent COVID-19 cases it was decided to conduct the meeting virtually. Because of the virtual format, formal introductions will not be announced but he 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 July 27, 2021 Meeting Summary**

The summary of the July 27, 2021 meeting was unanimously approved as submitted.

**III. Review of Jail Population Status – Dwayne Clark, Director**

- a. COVID-19- Steve Durham
- b. LMDC Population – Eric Troutman
- c. State Inmate Population- Eric Troutman
- d. CCC Update – Eric Troutman
- e. CSH/KCPC Competency Evaluations Update - Steve Durham

Tom introduced Dwayne Clark, Eric Troutman and Steve Durham and asked them to provide an update on the status of COVID-19 in the jail, an update on the jail population, the state inmate population, an update on the Community Corrections Center and CSH/KCPC competency evaluations.

Steve provided an update on COVID-19 in the jail. He reported that the population is currently at 1,621 with a rated capacity of 1,353. In terms of vaccines, Metro Corrections

has administered 10,150 COVID-19 tests to individuals in-custody. Of those tests, 681 have had a confirmed positive test and of those only 12 individuals remain in custody and are currently under medical isolation. He stated that through their partnership with Louisville Metro Public Health and Wellness, 1,733 Moderna vaccines have been administered to inmates. In response to a question from Tom Wine about releasing individuals who are positive with COVID-19, he stated that if someone is ordered to be released, they are released from custody. If they are being released to another institution or facility, he reported that it depends on the specific circumstances. He advised that most individuals who are ready to transfer to another facility will be delayed until they are tested and cleared through medical and the 14-day isolation. In response to a question related to in-custody deaths due to COVID-19, Steve reported no inmate deaths due to COVID have occurred.

Eric provided the population report. He stated that jail admissions for 2021 is right under 11,000 and that the projection is looking like admissions will be higher than they were in 2020. The average daily population is 1,425 which is lower than the current population due to the number being an average of the entire year. He reported that the average length of stay is also trending upward, and for 2021 is running at 32 days.

Eric reported that the average state inmate population which includes controlled intake and Probation and Parole is 280 inmates (174 controlled intake and 106 Probation and Parole). He noted that the number of state inmates over 45 days is steadily climbing and is currently averaging at 140. He reported that State DOC has moved a total of 645 individuals out in 2021. Due to COVID-19, the state is experiencing challenges and are not accepting inmates at five prisons. Tom asked Eric if the 32-day average length of stay included both state sentenced and pre-trial inmates. Eric advised that the ALOS includes the entire population and that it would be difficult to separate it out due to the population fluctuating daily but that he would see if a breakdown could be provided at the next meeting.

Director Dwayne Clark stated that he wanted to address the committee on the overall impact that COVID-19 has had on both the jail and staff operations. He stated that when COVID-19 began, the judicial system and other stakeholders did a good job at reducing the population. With the temporary closure of CCC and arrests increasing, he stated that it has become harder to manage. Additionally, there has been challenges with other county inmates being held in Metro Corrections due to counties not transporting. Lastly, he reported that state inmates are backed up in the facility. He emphasized the need for stakeholders of the Jail Policy Committee to advocate for movement of those individuals who are over 45-days. He also encouraged stakeholders to reduce the average length of stay by using HIP. He reported that there are approximately 118 staff vacancies (sworn and non-sworn) and it is the largest staff shortage he has seen in his tenure. To address the staffing, Metro Corrections has increased the use of social media platforms, such as Facebook and Instagram to advertise available positions. He added that Metro Corrections is working with a marketing firm to specifically target groups that are looking for employment in Corrections. In addition to the Mayor's incentive and pilot programs designed to attract additional staff, he is hopeful to reduce the vacancies. Director Clark

emphasized the need to increase the starting wage for Corrections Officers to attract quality candidates.

Tom thanked Mr. Clark for the update and stated that he looked at the data that Metro Corrections sent out on the number of inmates that are being held for other jail facilities. According to his analysis, Bullitt County and Hardin County had the largest number of individuals being held locally awaiting transport. Mr. Clark agreed and stated that he thought there was some agreement from both counties to move their inmates faster, but Bullitt County had an outbreak of COVID-19 and blamed it on the transports coming from Jefferson County. Tom stated that he is very concerned about the counties that are holding up the transfer of inmates to their facilities, allowing Jefferson County to bear the price and the cost of the space for those individuals. Tom mentioned that a lawsuit or some form of action may need to be taken on both county and state inmates that are being held in Jefferson County. Matt Golden stated that with the help of Director Clark and Steve from Metro Corrections, and Ann Dyke and Ingrid Geiser from the Jefferson County Attorney's Office there has been a lot work already done on the out-of-county warrant issues. He added that he and Ellen Heslen are meeting with the Secretary of the Justice Cabinet, Kerry Harvey, on Thursday and one of the agenda items is to discuss state inmate movement. Steve Durham added that he wanted to thank Judge Bisig for contacting judges in other counties to advise them to pick up their inmates.

Daniel Johnson thanked Mr. Clark, for speaking up about the pay issues and the vacancies at Metro Corrections. He stated that after attending several Jail Policy Committee meetings it seems that although the data on the population is discussed, nothing is done to affect change in the jail. He stated that inmates are currently not getting haircuts, visits, or recreation, and there are no mitigation efforts being discussed to curb the violence in the jail due to overcrowded dorms. He stated that Metro Corrections has the space to spread them out but doesn't have the workforce to do it. He reported that due to the staff shortage, over 7,000 hours of overtime is being used each month. He noted that the holidays are coming up and that is stressful time for officers and attempted suicides. He reported that jail administration is cutting out observation posts which monitor inmates in single cells. He called attention to the most recent critical overdose situation in the female dorm and stated that the current issues in the jail are more than COVID-19 and the population. He requested that time and effort be made in future meetings to discuss what can be done to address the critical issues facing the jail and not the data. Tom thanked Daniel and stated that through the meeting discussions the stakeholders identify issues and try to come up with solutions for those issues. He stated that if there are specific issues that he needs to bring to the committee's attention then they can be placed on the agenda ahead of time.

Eric relayed that there is no update to provide on the opening of the Community Corrections Center. Matt added that due to the staffing shortage at Metro Corrections, it is not possible to open the facility. He stated that news from Atlanta reported that they are going to begin to release pretrial felons after 90-days unless measures are put in place to reduce their crowding challenges. He added that with an additional hiring of 40 to 50 corrections officers, it would relive enough pressure to open CCC. In response to a

question raised by Judge Karem about bringing in the National Guard, Matt stated that it is up to the Governor to declare an emergency and Metro Corrections may not be the first place the guard is deployed. He stated that Metro Corrections is down 20% staffing and the KYDOC is down 50% and had to close five facilities to manage their problem.

Steve provided an overview of the conversations taking place related to CSH/KCPC competency evaluations. He reported that he has had some discussion with Ben Goldman from Public Health about whether American Rescue Plan funding could be used to address the concerns of individuals being housed in jail for competency evaluations. He reported that in 2016 there were 137 total orders for competency evaluation, 150 in 2017, 130 in 2018, 116 in 2019, 76 in 2020, and 56 orders so far this year. He advised that this volume of cases challenges the capacity at CSH and KCPC so individuals that may otherwise be eligible for bond or movement from the jail to the community, cannot go because there's a pending evaluation. He stated that there is some thought to take a look at these individuals to see if they could be transitioned into appropriate housing, where the evaluation can be done out of custody and be safely managed by supportive services and long-term care. He introduced Ben Goldman to explain the project/concept further.

Ben explained that the idea came out of a request from the accelerator team who is managing the ARP proposals. They had asked for projects that would address unmet mental health needs in the community, particularly that would disproportionately impact residents in our qualified census tracts. If approved, the proposed project would be funded until 2026. Given the sizable expense to city government now to help people with mental health needs in Metro Corrections, Ben stated that keeping individuals out of custody in a treatment setting or transitional housing would allow for Medicaid or Medicare to pay for their services. He stated that the Artery House was previously a HUD funded initiative that acted as an out of custody setting where individuals could await their competency evaluation. He stated that HUD decided to stop funding transitional housing in 2016 and there was an increase in the number of people who were awaiting their evaluations while incarcerated. The project is being proposed as a 10-bed facility where an individual can stay anywhere from one to nine months. He stated that Wellspring has expressed interest in this type of project, but another partner could include Seven Counties. The proposal only includes individuals who are incarcerated on non- assaultive charges but is open to discussion from stakeholders regarding the eligibility criteria. The accelerator team has indicated that if there is significant interest from the stakeholders, that would be interested in moving it forward as a proposal for the funding. He reported the approximate cost is about \$600,000 per year for the four years.

In response to a question, Ben stated that the Artery House was not a secure facility like being detained in the jail; however, did have nursing and case management staff on-site twenty-four hours a day. The individuals who meet the established criteria would be released on their own recognizance to await their scheduled evaluation. He stated that it is his understanding that individuals who have a pending evaluation are not currently being released because they don't have a stable place to be in the outside world. Judge Karem asked Ben if someone could be placed on HIP at the Artery House and Ben stated

that he thinks that would be possible. Tom Wine reminded members that at the last meeting John Rees suggested that LMDC consider using other facilities like the Volunteers of America or Dismiss House that might have additional bed space for low-level offenders. He asked if there was an update to provide. Steve stated that the jail is working with Volunteers of America for female population, because they are so challenged for Metro Corrections to find housing in the community. He stated that Metro Corrections will have to examine more closely using a halfway house as a continued stay in pretrial detention. John Rees noted that they are holding state corrections inmates and could hold HIP inmates as well. Tom asked Steve to continue exploring the possibility of using other facilities to give LMDC additional options.

#### **IV. Follow-up items/Updates**

- a. Inmate Release Process
- b. Legislative Proposal
- c. Out of County Inmates/Proposal to Amend RCr 3.02

Tom stated that in response to a question that was raised after the July meeting, it is important to better understand the processes associated when an inmate is ordered to be released from custody. He advised that he spoke to Steve Durham and Kevin Smalley and is glad to hear that the former paper-based sharing of releases has moved to an electronic transfer. Steve stated that although the process has improved it is still challenging. He stated that when an order is entered and signed by a District Court or Circuit Court Judge, it moves from that space to the Circuit Court Clerk's Office to be entered. Once the order is entered, it is then scanned in an email, and sent to Metro Corrections. Metro Corrections has designated staff in the Records office to look at various email boxes from Family Court, District Court, and from Circuit Court on regular basis. Once the Records department receives the order, they take that order out of the system, print it out, a paper copy is placed in the inmate folder, and then they take the information that's contained in the order, and populate it into the Xjail database. He explained that the Records staff prioritize the release of those individuals that will be released from custody. He stated that the Records department processes approximately 155,000 orders per year and the goal is to get individuals out of custody within four hours of the receipt of the order. He stated that because the jail and court systems don't talk, we can't immediately look and see that an order has been entered on a shared space. Occasionally there is a lot of disruption that goes on and until there is a system where Records can see the orders in real time there will be challenges. He stated that Records staff check the email boxes every 15 minutes, print out the orders, get them into the system, send the names through a warrant check and alert the property room of the release.

Tom asked Steve to explain the process for when individuals are ordered to be released on HIP. He stated that there can be delays in the movement if an individual is housed for medical reasons or is on detox and asked Steve to explain the process. Steve stated that Records does not process HIP orders as a release from custody, they are processed as an in-custody transfer or a reassignment and new housing. While these individuals are not released to the street, they are moved without unnecessary delay. He stated that

some of the things that impact transition from confinement in jail to community confinement is an individual who is actively suicidal, under a medical observation, or on detox. Metro Corrections does not transfer them to a HIP setting until they are medically cleared by the healthcare provider. He stated that in a majority of cases, movement to HIP is done in an expedient and efficient manner. Steve thanked David Nicholson and his staff for their collaboration. David stated the Office of the Circuit Court Clerk sends the releases in a timely manner but due to court volume or heavy dockets, orders may be delayed until there is a break in the courtroom or following the docket. He added that his staff work closely with the Records department at Metro Corrections to provide clarification on any questions related to a specific order that may be conflicting. Steve stated that Eric Troutman has been working with David and his staff for over a year to try to find a better system that will work to allow a more fluid communication between the agencies.

Tom recalled that during the July meeting it was discussed that the Co-Chairs would send a letter to Justice Keller, Kentucky Supreme Court, proposing an amendment to subsection 1 of RCr 3.02. Leo advised that the letter was sent and that the proposal will be taken up and considered by the Criminal Rules Committee. He stated that he will let the committee know once they receive a response. Tom said that he is hoping the amendment will give our local judges more authority to hear the cases.

Tom stated that in 2018 the Jail Policy Committee brought forth a legislative proposal that the Criminal Justice Commission Legislative Committee worked on; specifically, to permit police officers to have the discretion to cite versus arrest on bench warrants on low level charges. He emphasized that a lot of time and money are spend on low-level charges and that many of the bench warrants are eligible for release if they met the current criteria and would be released from jail anyway. He asked members to weigh in on whether or not to take it back to the Legislative Committee and make an effort to find some legislators who would be willing to consider this legislation. With no objections, the proposal will be presented to the Legislative Committee.

## **V. Next Steps**

Tom stated that Jail Policy Committee meetings were moved to every other month when issues and challenges with the jail population were in control. In an effort to move quickly on some of the items discussed today, he suggested moving to a monthly schedule until further notice. With no objections, he stated that the MCJC staff will work on getting the meeting for October scheduled.

## **VI. Adjourn/Next Meeting**

With no further business to discuss, the meeting was adjourned. Faith advised that she will work with the Co-Chairs to find a meeting date in October. Members will receive an electronic notice of the next meeting date.