

JAIL AND CORRECTIONS REFORM TASK FORCE

Minutes of the 1st Meeting of the 2020 Interim

July 31, 2020

Call to Order and Roll Call

The 1st meeting of the Jail and Corrections Reform Task Force was held on Friday, July 31, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Michael J. Nemes, John Schickel, and Robin L. Webb; Representatives Jason Petrie, Rob Rothenburger, and Ashley Tackett Laferty; Brad Boyd, Cookie Crews, and Mary C. Noble.

Guests: Steve Shannon, Jason Woosley, Amanda Essex, and Lisa Lamb.

LRC Staff: Katie Comstock and Yvonne Beghtol.

Mental Health and Incarceration

Steve Shannon, Executive Director of Kentucky Association of Regional Programs (KARP), stated that Community Mental Health Centers (CMHCs) serve approximately 180,000 Kentuckians per year, employ approximately 8,000 people, and are led by 300 volunteer board members. In regards to mental health and incarceration, Mr. Shannon stated that the sooner services are accessed the better the outcome for the individual and the system. CMHCs provide a Crisis Intervention Training (CIT) to train police officers on how to interact with someone who has a mental illness. CMHCs also offer Drug Courts, which are intended to use the influence and supervision of a judge to keep individuals engaged in substance use treatment services, as opposed to incarceration. Jail Triage is a CMHC program established for local jails to access telephonic services and supports focusing upon incarcerated individuals who may be at risk of attempted suicide. The Kentucky Department of Corrections Substance Use Disorders Intensive Outpatient Program (SU - IOP) is a mandatory program for individuals who have been referred while paroled or on probation from the Department of Corrections. Mr. Shannon stated that Medicaid expansion has had a profound effect by assisting in the payment of substance abuse treatment.

Mr. Shannon called attention to the Heroin Expedited Addiction Recovery Treatment (HEART) program in Boone and Kenton Counties serviced by NorthKey (the

CMHC in Northern Kentucky). If a judge orders a substance use assessment it is sent directly to NorthKey which completes the assessment where the individual is incarcerated. The assessment includes treatment and service levels of care including intensive outpatient, residential, or individual therapy. If intensive outpatient services are recommended, the individual is transported directly to NorthKey upon their release from jail. The HEART program received 776 court ordered assessments in FY 2020.

Mr. Shannon also made mention of the pre-release Pennyroyal, Western Kentucky Correctional Facility, and Green River Correctional Facility program requiring a re-entry case manager to be kept onsite to work with individuals who have an Opioid Use Disorder (OUD), Substance Use Disorder (SUD), or co-occurring disorder. The case manager will assist the individual six months prior to their release and ninety days post-release. The focus is to get the individual connected to community based services in an effort to keep them from returning to prison. The Green River data indicated that of the 49 appointments scheduled upon release, 42 were kept.

Mr. Shannon suggests a Severe Mental Illness (SMI) Waiver, which could provide stable housing, supported employment, and medication management. If an individual supported by the Supports for Community Living (SCL) waiver takes their medication one hour past the scheduled time, the agency has to report to the Department of Behavioral Health, Developmental and Intellectual Disabilities.

Mr. Shannon concluded by saying the Green River model shows how to leave the criminal justice system and the HEART model shows how to stay out of the criminal justice system.

In response to Chairman Meredith, Mr. Shannon stated that the National Alliance on Mental Illness (NAMI) data shows that 15% of men and 30% of women in jail have a serious mental health condition. In addition, the Substance Abuse and Mental Health Services Administration (SAMHSA) has found that those with:

- A serious mental illness account for 5% of the general population but 16% of the prison population and 17% of the jail population.
- A substance use disorder account for 8.5% of the general population but 53% of the prison population and 68% of the jail population.
- A co-occurrence of mental and substance use disorders account for 14% to 25% of the general population but 33% to 60% of jail and prison populations.

Further, the Bureau of Justice Statistics has found that 14% of the prison population report experiences that met the threshold of serious psychological distress, 26% of the jail population report experiences that met the threshold of serious psychological distress, 37% of the prison population report being told by a mental health professional that they had a mental disorder, and 44% of jail population report being told by a mental health professional that they had a mental disorder. Per Mr. Shannon, the bottom line is that people with mental illness and/or addiction are a significant percent of the individuals who

are incarcerated. Mr. Shannon stated that a good percentage could benefit from the SMI Waiver.

In further response to Chairman Meredith, Mr. Shannon stated that medical care may not pay for services that appear to be judicially mandated instead of medically required. Waivers are overseen by Centers for Medicare and Medicaid Services (CMS). Kentucky would have to decide how many residential allotments would be available and what the eligible population would be. The SCL Waiver now serves 3,000 individuals and still has 2,700 waiting. The Michelle P. Waiver currently serves 10,500 individuals with mental illnesses. In regards to transporting individuals who need to be involuntarily committed for assessment, Mr. Shannon agrees that using officers is not always the best option and that it is a topic that needs to be resolved. In response to whether or not individuals are on a shorter track because of Medicaid, Mr. Shannon stated that Medicaid pays a large amount, but some services require prior authorization by MCOs, and some residential programs get denied. While it happens all over, the majority of the denials come from one MCO in Kentucky. In regards to interfacing with prisoners and mental health facilities, Mr. Shannon confirmed that intentional linkage of the prisoner to a local community mental health facility is necessary.

In response to a question sent to Chairman Westerfield, Mr. Shannon agrees that programs, such as HEART, can be expanded beyond opioid to help more people. In response to a program in Tennessee that focuses on getting an individual into a behavioral health care facility in a very limited time, Mr. Shannon noted that Louisville started the Livingroom Program which offered 24/7 drop-off, but has had to scale back due to limited funding. The Four Rivers Mental Health Center in Paducah offers 24/7 drop-off with a half hour turnaround guarantee for the police officer.

Senator Schickel agrees that mental health services is a primary concern for prisoners and the handoff of prisoners to mental health facilities is an immense issue.

In response to Chairman Westerfield, Mr. Shannon agreed that the handoff of a prisoner to a mental health facility needs to be as encouraging as possible.

In response to Senator Nemes, Mr. Shannon agrees that concepts such as having an addiction recovery center come to the jail to assess the prisoner before being booked, offering a wraparound program to help prisoners find jobs, finding a program available to remote areas of Kentucky, and recovery are issues of importance that need to be addressed.

In response to Representative Tackett-Laferty, Mr. Shannon stated that Corrections offers mental health and substance abuse services with licensed clinical professionals for those who are incarcerated. The CMHCs become more involved when the prisoner is released into the community. Therefore, the handoff and continued services upon release from prison is where the CMHCs become involved.

Jail Phone Services

Jason Woosley, Grayson County Jailer, gave an update on jail phone services by stating that phone services are now all digital with cloud storage of six to eight years of storage. A prisoner is assigned an account number that requires voice identification and a PIN number. The recordings are used as an investigative tool by the jails as well as by prosecutors. The system offers constant contact with families. Phone privileges can be used as a disciplinary tool, restricting to one phone call per week. Video visitations has become an increased topic due to the COVID pandemic. In-person visitations are encouraged due to the positive effects it has on rehabilitation. However, video visitations are useful when family members are not able to travel to the facilities. While Grayson County has not launched video visitations, many jails have. A deputy has to be assigned to video visitations to monitor the background, which is an added expense. Video visitations will create some revenue from prisoners, but not a significant impact. Requests for phone recordings are received from prosecutors and sheriff's departments almost daily. The beginning of each phone call tells the caller that the call is being recorded.

In response to Chairman Westerfield, Mr. Woosley stated that the two main jail phone vendors is Kentucky are Securus and Combined Public Communications. The equipment is provided by the vendor at no cost. The jails receive a commission of the usage, which runs around 50% to 60%. Since Grayson County houses a majority of federal prisoners who receive income, their percentage runs higher than most jails; \$30,000 to \$45,000 per month. The Federal Communications Commission (FCC) sets a cap rate of \$0.21 per minute charged to prisoners. Family members can load money onto a prisoner's card to make calls, but the prisoner often uses that money for commissary purchases. Phone vendors have recently put into place a restriction that only allows the money to be used for phone time. Jails charge a \$10 per day housing fee, which can be taken from the prisoner's commissary account. If the account is restricted to phone time only, then jails cannot take from that account. The current amount loaded just for phone time is \$89,687.02. One inmate has just over \$15,000 in his account. For the jail to block certain phone numbers, the numbers would have to be known. The Department of Public Advocacy (DPA) has given a list of numbers to the vendors to put into the system that are not to be recorded, and an attorney can ask that their number be placed on the Do Not Record list.

Chairman Westerfield read a text from Senator Webb stating that the jails should contact the Kentucky Bar Association (KBA) to make sure private counsel is notified that they can have their number added to the Do Not Record list.

In response to Senator Schickel, Mr. Woosley stated that most jailers who use video visitation are using it for security issues.

In response to Representative Tackett-Laferty, Mr. Woosley stated that video visitation is the option of the jailers.

Chairman Westerfield stated that he would like to get information as to the average phone cost per prisoner, what that cost is paying for, and possibly having vendors at a future meeting.

Jail Ratings System

Amanda Essex, Criminal Justice Senior Policy Specialist with the National Conference of State Legislatures (NCSL), stated that the NCSL is a non-profit, bipartisan organization with a goal to provide legislatures with information and research about policy issues on the state and federal sides. Ms. Essex gave a list of distinctions between jails and prisons, advised that the Safety + Justice Challenge is focused on rethinking the use of jails and reducing the misuse and overuse of jails. Conditions of confinement in jails has become a primary focus in recent years. Kentucky is one of the first states to improve conditions for women in jails. Many jails hold prisoners who would be incarcerated by the state, and those jails receive state reimbursement that ranges from \$22 to \$35 per day. Utah increased the reimbursement rate for jails that provide treatment services. Ms. Essex presented state rating system examples for Ohio, Minnesota, Illinois, Arkansas, and Texas. The annual evaluation of state prisons conducted by the Ohio Correctional Institution Inspection Committee is based on five categories: Safety and Security, Health and Wellbeing, Fair Treatment, Rehabilitation and Reentry, and Fiscal Accountability, with a rating scale of Exceptional, Good, Acceptable, or In Need of Improvement.

In response to Chairman Westerfield, Ms. Essex stated that she is not aware of a penalty/reward system for jails that score low or high with the Ohio Correctional Institution Inspection Committee, but she will research that and get the information to the committee.

In response to Chairman Meredith, Ms. Essex clarified that the distinction between the state jails and county jails in Texas is that the state jails are run by the state, and are typically smaller facilities that fall under the Corrections Department along with prisons. They house a narrow category of offenses. Ms. Essex will research those offenses and get the information to the committee.

In response to Chairman Westerfield, Ms. Essex stated that the Ohio Correctional Institution Inspection Committee is made up of lawmakers, correctional institute employees, law enforcement individuals, attorneys, and other. Ms. Essex will get that information to the committee. Ms. Essex stated that she will verify whether the Ohio Correctional Institution Inspection Committee is geared to make recommendations or to enforce changes and will get the information to the committee.

Update on Halfway Houses and Private Prisons

Lisa Lamb, Deputy Commissioner of Community Services and Local Facilities, Department of Corrections stated that Kentucky has one private prison located in Beattyville, with a population of 778. The newest state prison is the Southeast State

Correctional Complex in Wheelwright, with a maximum capacity of 665. The contract for the 22 Reentry Service Centers in Kentucky was revised in 2019, giving a \$2.00 increase per diem and requiring evidence-based reentry programming to be offered. Reentry Service Centers were paid \$19.5M in FY20. The Reentry Service Centers are multi-use contract facilities used as a housing option for community custody inmates, transitional housing for parolees, and for treatment. Ms. Lamb stated that COVID-19 has affected the population of all facilities due to the suspension of transfers and controlled intake. The Department of Corrections (DOC) has worked diligently to protect the incarcerated population and staff by: 1) Suspending visitation as of March 1, 2020, 2) Implementing a screening process to include checking for symptoms, taking temperature, using hand sanitizing, and the use of foot sanitation trays for anyone entering a prison, and 3) Stopping all inmate transfers department-wide. Ms. Lamb gave the number of positive COVID-19 testing of inmates and staff from several of the facilities, along with the number of deaths. All positive test results are reported to the DOC website: <https://corrections.ky.gov>. There are currently 379 active inmate cases and 53 active staff cases. Four hundred thirty two inmates and 69 staff have recovered from the virus.

In response to questions received from Chairman Westerfield, Ms. Lamb stated that going to a Reentry Service Center is the first step to reenter the individual into the community. Having the department transport the individual is not economically feasible. Due to the pandemic, home placement investigation procedures have been modified. Reentry Service Centers are allowed to collect 25% of parolee earnings. The DOC cannot stop parolees from going out to work, but the employers can. The DOC has an individual whose primary job is to work with the directors of these facilities to get their pandemic action plan to ensure they are implementing procedures to keep everyone safe. Ms. Lamb advised that inmates are not being held from Reentry Service Centers in order to transfer to the new Southeast Correctional Complex. The Southeast Correctional Complex is going to be a prison for medium security male inmates.

In response to Chairman Meredith, Ms. Lamb verified that there are 22 Reentry Service Centers, with 12 offering substance abuse programs. Ms. Lamb will find out why the other ten do not currently offer substance abuse programs. Ms. Lamb agrees that the south central area of Kentucky does not offer a Reentry Service Center and the DOC has not received any contact from that area requesting a facility. Ms. Lamb will check into the possibility of an RFP for that area.

In response to Senator Carroll, Ms. Lamb stated that difficult choices have had to be made to protect inmates and staff. Due to the governor's requirements just over 1,100 prisoners were released, and 600 to 700 are under review for release.

There being no further business, the meeting adjourned at 12:07 PM.