

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting of the 2018 Interim

August 22, 2018

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 22, 2018, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Rob Rothenburger, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, Wil Schroder, Dan "Malano" Seum, and Damon Thayer; Representatives Danny Bentley, George Brown Jr, Ken Fleming, Kelly Flood, DJ Johnson, Kim King, Adam Koenig, Stan Lee, Michael Meredith, Jerry T. Miller, Robby Mills, Phil Moffett, Steve Riggs, Attica Scott, Arnold Simpson, John Sims Jr, and Kevin Sinnette.

Guests: Senator Jimmy Higdon, Senate District 14; Secretary John Tilley, Justice and Public Safety Cabinet; Barry Brady, Marion County Jailer; Brad Boyd, Christian County Jailer; Commissioner Steve Milby, Deputy Commissioner Tim House, David Startzman, Duane Curry, and Roger Banks, Department of Housing, Buildings and Construction; Commissioner Jim Erwin, Department of Corrections; Tony Wilder, Kentucky Council of Area Development Districts; Frank Doyle, Clark County Jailer; Derran Broyles, Scott County Jailer; David Daugherty, Marion County Judge/Executive; Renee Craddock, Kentucky Jailers Association; Shellie Hampton, Kentucky Association of Counties; Vince Lang, Kentucky County Judge/Executives Association; and Ron Wolf, Associated General Contractors of Kentucky.

LRC Staff: Mark Mitchell, John Ryan, Joe Pinczewski-Lee, and Cheryl Walters.

Approval of Minutes

Upon the motion of Senator Schroder, seconded by Representative Koenig, the minutes of the June 27, 2018 meeting were approved.

The Operation of Enhanced Jail Programs and Related Potential State Considerations

Senator Jimmy Higdon said that 2011 HB 463 intended to cap prisoners in Kentucky at 20,000, but the population has exceeded that level putting pressure on counties and county jails. Not all jails are the same; some offer more programs for the benefit of

prisoners so that they are better able to become productive citizens upon release, and some jails are able to just warehouse the prisoners. Performance-based funding for jails would reward those jails that offer programs to prisoners that prepare them for when they leave the jail. Every prison is accredited, but county jails are not accredited. Whether to pay jails to become accredited should be addressed.

Secretary John Tilley said that Kentucky has 76 full service jails, and half of the total state inmate population of 25,000 is housed in county jails. The state and counties must work together. Only Louisiana runs jails like Kentucky, housing many Class D felon state inmates. It presents a very unique set of challenges because jails were never meant to house prisoners long term. Jails were built for a short term stay, to house inmates before adjudication. This is how it is done in most states.

With reference to some of the reform work of the legislature, many people predicted Kentucky's inmate population without reforms to be at 35,000 today. It is at 25,000, which puts Kentucky ninth per capita in incarceration in the country, and second in female per capita incarceration. Kentucky's female incarceration growth rate is five times that of the male incarceration growth rate at this moment. Roughly half of Kentucky's inmate population is represented in county jails at the Class D felon range. This often represents a population that is really in desperate need of drug treatment but also job training, job skills, and other cognitive behavioral therapies. The programs are working, and corrections officers believe the programs are working. The programs are making corrections officers' jobs safer because the inmates are focused on these therapies, job skills, and job training.

Vice-President Pence recently commended Kentucky for its reentry programs. Instead of building warehouses, Kentucky is building reentry centers. Out of 76 county jails, less than one-third offer any type of corrective programming. Jails do not have the funding or the space to offer the programming. Kentucky's per diem does not pay for the kind of programming that is needed.

There were 3,000 people in prison in the early 1970s. Kentucky's prison population has risen considerably while the population has not. There are 48,000 people in active supervision under the Department of Corrections. Kentucky has 12,000 to 14,000 county inmates.

Kentucky is a leader in drug policy and reentry issues. Around 2010, people stopped paying attention to reentry issues, even though there was a division in the cabinet dedicated to reentry filled with people who worked hard on equally important goals such as housing, transportation and treatment. People did not have a connection to helping the released individuals get a job. One year of continued employment reduces recidivism to only 17-18 percent. For those who do not work, the rate is 52 percent. In the last two years of this administration, Kentucky has experienced record economic development--\$15.2 billion

and over 17,000 new jobs. Sixteen thousand people are released from the state prisons each year. This number could help fill the 160,000 open jobs.

Marion County Jailer Barry Brady discussed the rising cost of incarceration, using his jail as an example. The last time that the General Assembly addressed the per diem for jails was in 2005. In 2005 to 2006, it cost the Marion County Detention Center nearly \$3,000,000 to operate. In 2017 to 2018, it cost nearly \$5,000,000. Examples of increasing cost factors include deputy wages, medical services, and food service. The Marion County Detention Center has seen a five-year rising trend due to drug addiction and increased security issues.

The Marion County Detention Center's programming includes the ALPHA/SAP (Substance Abuse Program) Program, which is a six-month inpatient treatment program consisting of 128 beds; the SAP Mentorship Program, which is offered to graduates to assist in building leadership skills within the therapeutic community; and the REACH Program, which is a six-month extension of the SAP Program offered to SAP graduates. Programs offered within the REACH Program include: moral recognition therapy, anger management, relapse prevention, and moral recognition therapy mentorship.

The evidence-based program beds-per-jail-facility percentages include 36 percent for North Point; 28 percent for Eastern Kentucky; 38 percent for Blackburn, 38 percent for Green River, and 70 percent for Marion County Detention Center.

Secretary Tilley said that Kentucky has 9,985 slots available for evidence-based treatment. He is not aware of any state with more slots (to be differentiated from beds) as a percentage of population. The numbers do not include the Lee Adjustment Center's capabilities.

Mr. Brady said that GED completions in 2018 include one for Lee Adjustment, 30 for Eastern Kentucky, 14 for North Point, 18 for Green River, 19 for Blackburn, and 23 for Marion County Detention Center.

Secretary Tilley said that GEDs are not needed for the state prisons' population. Performance-based funding needs should incentivize excellence at the county jail level so jails can get help to offer GED programs to those who need them at the Class D level.

Mr. Brady said the Marion County jail per diems costs are competitive with other facilities, but when a facility offers additional programs, the per diem cost will rise, as has been the case with Marion County.

Christian County Jailer and Kentucky Jailers Association President Brad Boyd said that the enhanced jail programs are doing well in the jails that have them. Other jails would like the opportunity to have those programs but do not have the space to conduct the

programs outside the cells. The Jailers Association is interested in doing its part to bring technology to the jails for classes.

In response to a question from Senator Bowen, Mr. Brady said there was an increase in jail female population due to drug abuse.

In response to a question from Senator Bowen, Secretary Tilley said that 70 percent of state inmates have high school diplomas or GEDs prior to entering the corrections system. There are validated predictors that indicate that a lack of education increases an individual's chance of incarceration. The number one problem is mental illness. Individuals try to self-medicate and end up being incarcerated.

In response to a question from Senator Bowen, Mr. Brady said that Marion County has been able to employ counselors to assist with programs, but that there is a high turnover rate. Faith-based programs use many volunteers.

Secretary Tilley said that the state uses faith-based programs.

Representative Riggs said that good mental health has to come before job training or education. In response to a question from Representative Riggs, Secretary Tilley stated that mental health and medicine should be a factor for performance-based funding, but jails do not have the resources and cannot find qualified mental health providers. The agency is willing to partner with the General Assembly to craft policy on this issue.

Mr. Boyd said that there is a concern that individuals dealing with mental health issues cease taking the medications they are prescribed and end up back in jail.

In response to a question from Representative Moffett, Mr. Brady said that prisons must comply with national standards, such as those issued by the American Corrections Association, in order to be accredited. Jailers comply with Kentucky Jail Standards. Even though additional programs are encouraged by the Kentucky Jail Standards, the offering of those programs does not constitute a basis of accreditation.

Representative Moffett expressed concerns that departing from the core services of jails through the addition of wrap-around programs would eventually increase jail costs to an unsustainable level and that perhaps using existing agencies to provide these services would be better.

In response to a question from Representative Scott, Mr. Brady replied that 30 percent of the 12,000 state inmates are eligible to complete their GEDs.

In response to a question from Representative Fleming, Secretary Tilley stated that outside entities help with the programs and that the agency does not want to duplicate services or increase inefficiency.

In response to a question from Senator Seum, Mr. Brady said prisoners spend an average of 180 days in an SAP program.

Senator Seum said certifying prisoners in some kind of trade is more valuable than completing a GED. Secretary Tilley said that jails are racing to certify prisoners in trades.

Representative Brown said that inmates should be provided with help regarding reentry into society because there is a mainstream economy and an underground economy, and the underground economy is unstable and illegal. The automatic restoration of voting rights, “ban the box” legislation, and expungement should all be considered in justice reform efforts.

In response to a question by Senator Alvarado, Secretary Tilley stated that the state plans to have inmates start SAP medication while in jail. Some prisons administer the medication prior to, at, and one month after release, which helps prevent recidivism.

Senator Bowen asked members to get with staff on issues they would like to see readdressed because, time permitting, Secretary Tilley and the jailers will be reinvited to a future meeting.

Consideration of Kentucky Administrative Regulations

The committee considered the following referred Administrative Regulations promulgated by the Department of Housing, Buildings and Construction: 815 KAR 7:110, criteria for expanded local jurisdiction related to building code enforcement; 815 KAR 7:120, Kentucky Building Code; 815 KAR 815 KAR 7:125, Kentucky Residential Code; 815 KAR 8:011, repeal of 815 KAR 8:007 and 815 KAR 8:045 relating to HVAC; 815 KAR 8:070, HVAC installation permits; 815 KAR 8:080, HVAC inspections and tests; and 815 KAR 8:100, criteria for local jurisdiction HVAC programs. Commissioner Steve Milby, Deputy Commissioner Tim House, and David Startzman, General Counsel, represented the department and discussed the proposed changes.

Senator Bowen stated that a written report of the review will be submitted to LRC.

There being no further business, the meeting was adjourned at 11:35 a.m.