

Approved Minutes

Michigan Joint Task Force on Jail and Pretrial Incarceration – Meeting #2

Friday, August 23, 2019, 9:30 a.m.– 4:00 p.m.

Kirkbride Hall, 700 Cottageview Dr. #200, Traverse City, MI

Members Present:

Hon. Garlin Gilchrist II, Michigan Lieutenant Governor, Co-chair
Hon. Bridget McCormack, Michigan Supreme Court Chief Justice, Co-chair
Dr. Amanda Alexander, Detroit Justice Center
Hon. Thomas Boyd, 55th District Court
Mr. Craig DeRoche, Prison Fellowship
Mr. William Gutzwiller, Sr., Michigan Association of Chiefs of Police
Ms. Monica Jahner, Northwest Initiative
Dr. Sheryl Kubiak, Wayne State University Department of Social Work
Lt. Jim Miller, Allegan County Sheriff's Department
Rep. Mike Mueller, 51st House District
Mr. Takura Nyamfukudza, Chartier & Nyamfukudza, P.L.C.
Mr. Bill Peterson, Alpena County Board of Commissioners
Sen. Jim Runestad, 15th Senate District
Sen. Sylvia Santana, 3rd Senate District
Mr. James Talen, Kent County Board of Commissioners
Mr. Robert VerHeulen, Kent County Road Commissioner
Rep. Tenisha Yancey, 1st House District

Members Excused:

Sheriff Jerry Clayton, Washtenaw County Sheriff's Department (Sgt. Eric Kunath attended as his proxy)
Hon. Prentis Edwards, Jr., 3rd Circuit Court (Hon. Beth Gibson, 92nd District Court, attended as his proxy)
Mr. DJ Hilson, Muskegon County Prosecutor's Office (Mr. Brandon Lanyon attended as his proxy)
Hon. Dana Nessel, Michigan Attorney General (Mr. John Pallas attended as her proxy)

I. Convening of Meeting

The co-chairs called the meeting to order at 9:33 a.m.

II. Roll Call

Co-chair Garlin Gilchrist took the roll. A quorum was present. Four members were excused from the meeting, and each was represented by a proxy.

III. Welcome and Introductions

Co-chair Garlin Gilchrist introduced task force member Bill Peterson to give introductory remarks. After Mr. Peterson's remarks, the co-chairs gave welcoming remarks.

IV. Motion to Approve Minutes

Co-chair Bridget McCormack made a motion in favor of approving the minutes from the first Task Force meeting on July 24, 2019. Seconded. Motion passed.

V. Reports from Task Force Members on Subcommittee Meetings and Roundtables

Mr. James Talen reported on a roundtable meeting of rural county commissioners held August 20, 2019 to discuss issues related to the work of the Task Force. The primary issue raised by the commissioners was the shortage of mental health and substance abuse services for individuals in their counties. Other issues raised included difficulties recruiting and training corrections officers, the high costs of medical care in jails, and the large proportion of county budgets spent on jails.

Hon. Thomas Boyd reported on the first meeting of the Judge's Subcommittee, held August 9, 2019. Judge Boyd reported several concerns from judges that require further investigation, including how much of the growth in rural jails is caused by the practice of rural jails renting beds to urban jurisdictions; whether the use of the sentencing guidelines has affected jail populations; and whether the closure of mental health facilities has affected jail populations. Judge Boyd also reported that some judges expressed a desire for more resources to be invested in electronic monitoring, drug testing, and mental health services and for more information to be made available to judges when making bond determinations.

VI. Expert Presentation #1: Tim Schnacke, Center for Legal and Evidence-Based Practices

Mr. Tim Schnacke of the Center for Legal and Evidence Based Practices presented on the history of bail and bail reform and the constitutional issues related to bail in the United States. The presentation can be found [here](#) with links to supplementary materials [here](#).

Mr. Craig DeRoche asked how conditions of release come into play when considering constitutional issues surrounding bail; Mr. Schnacke replied that many states are grappling with constitutional concerns around conditions of release, because they, like the imposition of cash bail, can have a high cost to defendants and the potential to lead to pretrial incarceration.

Sen. Jim Runestad asked about reforms in Colorado mentioned in the presentation; Mr. Schnacke said that money bail still exists in Colorado, but referred Sen. Runestad to the bail structure in Washington, D.C., where approximately 94 percent of defendants are released pretrial with a success rate (including no new offenses and no failures to appear) around 90 percent.

Dr. Sheryl Kubiak inquired as to the policy levers that can be used to create change; Mr. Schnacke gave examples of the establishment of a meaningful requirement of release for certain offenses and defendants and referenced the importance of a cultural shift away from money bail.

VII. Expert Presentation #2, Andrea Woods, American Civil Liberties Union

Ms. Andrea Woods of the American Civil Liberties Union presented on the rights related to bail and bond, as well as a description of the recent litigation on this issue from around the country. The presentation can be found [here](#) with supplemental materials [here](#) and [here](#).

Dr. Amanda Alexander asked about an Arizona case mentioned in the presentation concerning pretrial conditions of release; Ms. Woods answered that the case was argued in August, and that it challenges the practice of jailing defendants who cannot afford pretrial electronic monitoring.

Hon. Bridget McCormack asked about themes arising from litigation around the country; Ms. Woods answered that much of the active litigation challenges detention findings by courts, arguing that they do not meet the required threshold of a finding that detention is warranted and necessary by clear and convincing evidence.

VIII. Expert Presentation #3, Jennifer E. Copp, Ph.D., Florida State University

Dr. Jennifer Copp presented on the most salient national research related to jail incarceration and alternatives. The presentation can be found [here](#) and the reference list [here](#).

Mr. Craig DeRoche asked about the sample size and quality of the findings presented; Dr. Copp believes that, unless otherwise noted in the presentation, the findings presented were robust and reliable, including several studies that used matching techniques to reduce the likelihood of biased results. Dr. Copp acknowledged that jail research is difficult overall, in part because of the poor quality of most jail datasets, and more study is needed.

Rep. Tenisha Yancey asked whether the research presented concerning pretrial drug testing found that drug testing can increase pretrial failure rates; Dr. Copp answered that the question posed in the referenced study was whether pretrial drug testing had any positive effect on pretrial success, and that the research concluded it did not.

Rep. Mike Mueller commented that domestic violence victims need to be taken into consideration at every step of the pretrial process. He noted that the relief they feel when perpetrators are jailed is significant and provides meaningful protection, and Dr. Sheryl Kubiak wondered whether domestic violence is properly considered in existing pretrial risk tools.

Hon. Garlin Gilchrist commented that the perspectives of corrections officers and others who work in the justice system should be incorporated into research as well.

IX. Public Testimony

The following people provided public testimony to the Task Force:

Keli MacIntosh, ACLU Campaign for Smart Justice

Jash Lardie

Peter Edgley, Harm Reduction Michigan

Craig Wilson

Hon. T.J. Phillips, 86th District Court, Retired

Aaron Kinzel, University of Michigan

Jacqueline Williams, American Friends Service Committee

Sherise Shively, 13th Circuit Court Community Corrections

Jannan J. Cornstalk, Tribal Citizen, Little Traverse Bay Bands of Odawa Indians

Josh Hoe, Safe and Just Michigan

Lt. Jon Borgman, Newaygo County Jail

Sheriff Richard C. Fuller, Kalamazoo County Sheriff's Office, Michigan Sheriff's Association

Gerald Morris, Project Unity for Life

Melissa Fruge
Jay Kaplan, ACLU of Michigan
Hon. Tom Power, 13th Circuit Court
Kristen S. Burgess, ACLU Campaign for Smart Justice
Chief Jeff O'Brien, Traverse City Police
Ryan Hannon, Goodwill Street Outreach
Hon. Bob Cooney, 86th District Court
Barb Hankey, Oakland County Community Corrections
Shawn Barrera-Leaf, ACLU of Grand Traverse County
Victoria Burton-Harris, Criminal Defense Attorney
Philip Mayor, ACLU of Michigan
Stacey Kaminski, Northern Lakes Community Mental Health
Tom Mair, former Grand Traverse County Commissioner
Kit Tholen, Grand Traverse County Prosecutor's Office
Betsy Coffia, Grand Traverse County Commissioner
Noelle Moeggenberg, Grand Traverse County Prosecutor's Office
Darcie Pickren, Before During and After Incarceration, Legal Assistant/Mediator
Sgt. Brian Newcomb, Grand Traverse County Sheriff's Office

X. Next Task Force Meeting Date

The next Michigan Joint Task Force on Jail and Pretrial Incarceration meeting is scheduled for Friday, September 20, 2019 from 9:30 a.m. to 12:30 p.m., with public testimony to be heard from 1:30 p.m. to 4:00 p.m. The meeting will be held at Grand Rapids Community College, The Raider Grille, 122 Lyon St. NE, Grand Rapids, MI.

XI. Adjournment

There being no further business before the Task Force, and seeing no objection, the co-chairs adjourned the meeting at 3:57 p.m.