

Approved Minutes

Michigan Joint Task Force on Jail and Pretrial Incarceration – Meeting #3
Friday, September 20, 2019, 9:30 a.m.– 4:00 p.m.
Grand Rapids Community College, 122 Lyon St. NE, Grand Rapids, MI

Members Present:

Lt. Gov. 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
Mr. DJ Hilson, Muskegon County Prosecutor's Office
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. 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
Hon. Prentis Edwards, Jr., 3rd Circuit Court; Hon. Maria Ladas Hoopes, 60th District Court, attended as his proxy
Ms. Dana Nessel, Michigan Attorney General; Mr. John Pallas attended as her proxy
Sen. Jim Runestad, 15th Senate District; Ms. Linda Hyaduck attended as his proxy

I. Convening of Meeting

The co-chairs called the meeting to order at 9:35 a.m.

II. Welcome and Introductions

Co-chair Garlin Gilchrist introduced Kent County Sheriff Michelle LaJoye-Young to give introductory remarks. The sheriff welcomed everyone to Kent County and gave a brief overview of the innovative policies her county has implemented to improve outcomes for people in jail.

III. Roll Call

Co-chair Gilchrist took the roll. A quorum was present. Four members were excused from the meeting, and three were represented by proxies.

IV. Motion to Approve Minutes

Co-chair Gilchrist introduced the minutes from the second Task Force meeting on August 23, 2019. Mr. DJ Hilson made a motion in favor of approving the minutes. Mr. Takura Nyamfukudza seconded. Motion passed.

V. Report from DJ Hilson on Prosecutor Roundtable

Mr. Hilson reported on a roundtable meeting of prosecutors held on July 26, 2019, to discuss issues related to the work of the Task Force. Prosecutors discussed funding challenges that limit their ability to work with defense attorneys now present at arraignments under the newly implemented Michigan Indigent Defense Commission (MIDC) standards. Prosecutors also discussed mental health and substance abuse challenges among the jail population, jail overcrowding, and the need for restitution and support services for victims.

VI. Announcements

Co-chair Chief Justice Bridget McCormack invited Task Force members to four upcoming events relevant to the work of the Task Force:

- Community reception hosted by Greater Grand Rapids Advocates and Leaders for Police and Community Trust on September 20, 2019, from 5:00 p.m. to 8:00 p.m.
- Pretrial Justice Training hosted by Oakland County Community Corrections and Michigan Department of Corrections Office of Community Corrections on September 24 and September 25, 2019, from 8:30 a.m. to 5:00 p.m. both days.
- Wayne County jail discussion hosted by the Hudson-Weber Foundation and the Wayne County Jail Working Group on October 17, 2019, from 4:00 p.m. to 6:00 p.m. Invitation only reception to follow from 6:00 p.m. to 7:30 p.m.
- Genesee County jail visit (Task Force members and staff only) on October 31, 2019, from 10:00 a.m. to 1:00 p.m.

VII. Presentation #1: Terry Schuster and Michelle Russell, The Pew Charitable Trusts

Mr. Terry Schuster gave an introduction and Ms. Michelle Russell presented on results from Pew’s analysis of statewide arrest data, statewide court data, and a sample of jail data. The presentation can be found [here](#).

Task Force members had the following questions and comments regarding the arrest data:

- Rep. Tenisha Yancey asked about the racial breakdowns that were included in the analysis. Ms. Russell responded that although Black and White were the most common categories of race, the data also included Asian, American Indian/Alaska Native, and other categories that were too small to report. Arab American was not a category captured in the data. Rep. Yancey indicated that nonreporting of race data was a problem in her district, and Ms. Russell indicated she would look into the prevalence of “unknown race” in the arrest data.
- Judge Maria Ladas Hoopes remarked that the majority of people given citations in Muskegon County are still lodged at the jail and that considering citations to be an alternative to arrest is inaccurate. The Pew team will research this further.

- Dr. Amanda Alexander asked why arrest rates increased for Black women. Ms. Russell will provide a breakdown of arrests for this group to help answer the question.
- Mr. Jim Talen asked for more context around the decline in marijuana arrests. He noted that Kent County decriminalized marijuana in 2012 and the state legalized possession of small amounts in 2018. Ms. Russell was not able to provide more context, but the comment was flagged for policy discussion.
- Mr. William Gutzwiller posited that the decline in the number of arrests could be attributable to fewer police officers on the streets. He recommended researching staffing levels via the Michigan Commission on Law Enforcement Standards (MCOLES). Judge Thomas Boyd agreed that the reduction in arrests for Operating Under the Influence (OUI) was likely due to fewer officers available for traffic stops.
- Dr. Alexander expressed interest in the breakdown of citations by race. Ms. Russell noted that there were no significant differences in her analysis but offered to provide a table with the data requested.

Task Force members had the following questions and comments regarding the court data:

- Judge Boyd remarked that about one third of felonies never leave district court, which aligns with the large number of cases dismissed in district court.
- Task Force members discussed why the number of case filings in the court dataset is significantly higher than the number of arrests in the arrest dataset. Ms. Russell posited that it could be criminal traffic offenses that are not included in the arrest data, but would be in the court data. Chief Justice McCormack agreed that this was likely.
- Mr. Nyamfukudza asked whether it was possible to determine how many cases are resolved via plea agreements while defendants are in custody and under pressure to take a plea in order to get out of jail. Ms. Russell explained that one goal for the October data presentation is to connect court and jail data to be able to answer that question and others.

Task Force members had the following questions and comments regarding the jail data:

- Mr. John Pallas asked if there was an explanation for the increasing number of people aged 50 and older who are being arrested and incarcerated. Ms. Russell mentioned that this mirrored national trends and seemed to be driven by assault and OUI charges but that she could provide more detail later.
- Judge Boyd asked for more information about the most common charges among people incarcerated two or more times during the sample timeframe. Ms. Russell will provide this breakdown.
- Rep. Yancey asked for demographic information about people who bonded out of jail and those who didn't, including race and socioeconomic status. Ms. Russell explained that she can provide this information by race, but that individual socioeconomic data is not available in the dataset. She will examine possible proxies. Ms. Linda Hyaduck mentioned that the pretrial agencies she previously worked with collected income information and those agencies could be a possible source for socioeconomic data.

- Dr. Alexander asked about determining the amounts of bonds and who posted them. Ms. Russell indicated that she hopes to have bond amounts for the next presentation but will likely not have information about who posted the bond.
- Rep. Yancey asked where dismissals fit into the release categories presented and Ms. Russell noted that they were not standardized enough across counties to be able to incorporate in the larger analysis. She can look at a smaller subsample to investigate.
- Judge Boyd expressed surprise that 17 percent of people were held in jail longer than a week when their most serious charge was driving without a valid license. Task Force members had some conversation about this finding. Chief Justice McCormack is interested to know where this is happening.
- Rep. Yancey asked about where people go when they are released on substance abuse charges. Ms. Russell noted that this is not available in the data but flagged it for policy discussion.
- Judge Ladas Hoopes thought further analysis was necessary on the OUI cases, investigating how many were misdemeanors versus felonies and how many were held in jail only one day to get sober versus being held longer than one day but less than one week. Ms. Russell promised to do this analysis. Judge Ladas Hoopes indicated that the analysis of one day or less versus two days to one week was important for a number of offenses where lodging defendants briefly in jail was an important public safety consideration. Judge Ladas Hoopes also mentioned that many people give a false name at arrest and holding them in jail briefly allows them to be identified. Chief Justice McCormack noted that jail may not be the right place to determine someone's identity and flagged it for future policy discussion.
- Rep. Yancey asked how many people were being held in jail awaiting a psychological evaluation. Ms. Russell explained that this is not available in the data.

VIII. Presentation #2: Sheryl Kubiak, Ph.D. and Erin Comartin, Ph.D., Wayne State University Center for Behavioral Health and Justice

Dr. Sheryl Kubiak and Dr. Erin Comartin presented on their research related to mental health and substance misuse in Michigan's jail population. The presentation can be found [here](#).

Task Force members had the following questions and comments regarding Dr. Kubiak's portion of the presentation:

- Mr. Craig DeRoche asked whether the Brief Jail Mental Health Screen was a proprietary tool requiring a fee per use. Dr. Kubiak responded that it is public and free to use. Mr. DeRoche responded by asking whether benzodiazepines were included in the list of drugs asked about on Dr. Kubiak's screening tool since withdrawal can be deadly, which is important for jails to know. She noted that it was not included because the screen is intended to be brief, but that jails are often doing their own additional screening. Her center implemented the tool to be consistent across counties.
- Rep. Yancey asked what training police officers have to identify serious mental illness (SMI). Dr. Kubiak noted that training is not required by MCOLES and is not widespread, but Dr. Comartin talked about the training that does exist later in the presentation.

- Judge Boyd asked about what diagnoses they chose to include in their measure of SMI, and Dr. Kubiak clarified that their screen measures symptoms, not diagnoses. In order to look at actions taken by the jails to address SMI, they also defined SMI however jails did.

Task Force members had the following questions and comments regarding Dr. Comartin's portion of the presentation:

- Dr. Alexander asked for demographic information about who was taken to a crisis center versus being arrested. Dr. Comartin responded that there were no significant differences across race, age, or gender.
- Task Force members discussed the availability of funding for mental health services in jails versus the community. Judge Boyd noted that Medicaid expansion reduced the state dollars available for mental health services, but since Medicaid cannot be used to fund services in jail, this has led to a shortfall in funding for mental health services in jail. Mr. DeRoche mentioned that the National Sheriff's Association is currently discussing this issue.
- Rep. Yancey asked how many people with SMI were incarcerated for violent versus nonviolent offenses, and Dr. Kubiak responded that the SMI population mirrors the general population on this measure.

IX. Break for Lunch

Mr. Bill Peterson and Mr. Hilson left the meeting.

X. Invited Testimony from Jeffrey Clayton, American Bail Coalition

Mr. Jeffrey Clayton, the Policy Director of the American Bail Coalition, gave a brief overview of his organization and its role as a partner of the justice system. He discussed the third generation of bail reform and some of the issues it poses. Task Force members had the following questions and comments about Mr. Clayton's testimony:

- Rep. Mike Mueller recalled the discussion about federal civil rights cases about bail from the second Task Force meeting and asked Mr. Clayton how they were addressing these lawsuits as an industry. Mr. Clayton responded that these cases were mostly considering a due process problem, not an Eighth Amendment problem.
- Mr. DeRoche asked whether Mr. Clayton tracked pretrial performance by bond amount. Mr. Clayton said his organization is not allowed to collect data, but that while he has not seen information by bond amount, overall failure rates (where the bond agency must pay the full bond because they cannot locate the client) are around two or three percent. He also noted that rates of failure to appear are lower for felony cases than for misdemeanors.
- Rep. Mueller asked about the arrest powers of bond agents who can potentially take the pressure off law enforcement to locate and arrest people who have warrants. Mr. Clayton recognized that this was true but noted that his industry wants to minimize warrants, which are dangerous for everyone.

- Dr. Amanda Alexander asked what people in the bail bond industry think about the fact that the United States and the Philippines are the only countries in the world that use cash bail. Mr. Clayton noted that many countries do not have due process and bail is informal and unregulated, sometimes taking the form of a bribe. He acknowledged that the U.S. could learn from the rest of the world, as well.

XI. Public Testimony

Rep. Mike Mueller left partway through public testimony. The following people provided public testimony to the Task Force:

David Safavian, American Conservative Union
 Julie Warren, Right on Crime
 Jesse Kelley, R Street
 Joanne Sheldon, TBD Solutions
 Carolyn Sutherby, Michigan State University
 Alexa Kramer, Grand Rapids Chamber
 Tim Bouwhuis, Kent County Pretrial
 Randy Thorpe, Family of Incarcerated
 Alejandro Alves, Vital Strategies
 Josh Hoe, Safe and Just Michigan
 Kimberly Buddin, ACLU of Michigan
 Alyssa Gunderson, Muskegon Public Defender's Office
 Elise Elzinga, Muskegon Public Defender's Office
 Wendie Preiss, Blazing Trails Change Management, LLC
 Kimberly Perleberg, Concerned Citizen
 Holly Wilson, Safe Haven
 Shawn Barrera-Leaf, MCFJ/ACLU/Registered Voter
 Kristen Burgess, MI Citizens for Justice/ACLU Smart Justice
 Heather Weigand, HealthWest Community Mental Health
 Ross Buitendorp, Network180
 Richard Sailopal
 Geoffrey Leonard, Detroit Justice Center
 Rasha Almulaiki, Detroit Justice Center/The Bail Project
 Deandre Jones, WGNO Linc Up
 Darcie Pickren, BDAI
 Jainya Sannoh, Victim
 Kendall Lavelle, Kent County Prosecutor's Office, Victim Witness Unit
 Marian Anderson, Children's Advocacy Center of Kent County
 Jessica Johnson, Children's Advocacy Center of Kent County
 Anne Hiskes, St. Mark's Episcopal Church
 Michael Sepic, Berrien County Prosecuting Attorney
 Amy Harbison, Safe Harbor Child Advocacy Center
 Jennifer Holland-Kapala
 Karen Walters
 Wende Randall, Kent County Essential Needs Task Force

Denise, Lucy, and Sophia Rapt
Jash Lardie

XII. Next Task Force Meeting Date

The next Michigan Joint Task Force on Jail and Pretrial Incarceration meeting is scheduled for Friday, October 18, 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 Wayne State Law School auditorium, 471 West Palmer, Detroit, MI.

XIII. Adjournment

There being no further business before the Task Force, and seeing no objection, the co-chairs adjourned the meeting at 4:25 p.m.