MINUTES
Criminal Justice Oversight Council
January 29, 2020

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Attendance:
8:31 Call to order, roll call. Members present:
• Chair Kurt Krueger, District Judge
• Representative Barry Usher,
• Representative Ryan Lynch,
• Senator Keith Regier,
• Reg Michael, Director, Department of Corrections (DOC)
• Ross Canen, Dawson County Sheriff
• Marty Lambert, Gallatin County Attorney
• Annette Carter, Executive Director, Board of Pardons & Parole
• Peter Ohman, Office of the Public Defender
• Kelsey Young, Montana Coalition Against Domestic & Sexual Violence
• SK Rossi, Montana ACLU
• Melissa Kelly, Gallatin County Re-Entry
• Amy Tenney, Boyd Andrew Community Services

Members absent at roll call:
• Cynthia Wolken, Deputy Director, DOC
• Andy Huff, Native American Representative
• Senator Nate McConnell

Council Support:
• Kathy Ralston, Project Manager, Department of Corrections
• Mark Piskolich, Justice Reinvestment Coordinator

8:32 Minutes unanimously approved on motion of Mr. Lambert, second by Rep. Lynch.
Presentations:
8:35 UCCI presentation by Carrie Sullivan

8:55 First question break
- Questions regarding dosage and mandated treatment can be a good practice with motivation
- Chair Krueger noted that there is not a working knowledge of how the DOC’s risk/needs assessment plays into sentencing
- Ms. Sullivan advised how important it is for staff to be consistently trained in CBT, core curriculums, core correctional practices

9:13 Ms. Sullivan discusses 2 to 4 years for full implementation of EBP and 3 to 5 years to see any results.

9:34 Ms. Young asking for breakdown of number and role of DOC staff trained in Core Correctional Practices (CCPs) with relation to active treatment programs.
- Chair Krueger follows up with request the data be collected throughout the process
- Rep. Lynch also mentioned cost and tracking benefit of treatment (based on risk level). Are we operating programs to the best use of our dollars.
- Ms. Sullivan advised information is at WSIPP (Washington State Institute for Public Policy)

9:42 Ms. Sullivan presentation of Correctional Program Checklist (CPC)

9:58 Request to bring DOC policy with regards to definition of recidivism.


10:22 Chair Judge Krueger asked to see the balance of CPC reports (having been provided the MSP Sex Offender CPC). Asked follow up regarding measures to correct and track corrections in shortcomings.

10:25 Break

10:45 Call to return to order, Ms. Sullivan UCCI presentation continued.

11:15 Questions regarding the ORAS versus MORRA and what are the issues with the MORRA (adapted from the ORAS) being not evidence-based.
- Ms. Sullivan advised that that CPS requires evidence-based and validated risk/assessment tools. Committee members questions if MORRA and WRNA are in compliance
- Rep. Lynch asked for a follow-up from DOC regarding the $1 million dollar grant to address this issue
Discussion of American Society of Addiction Medicine (ASAM), also Texas Christian University (TCU), Institute of Behavioral Research (IBR) provides additional risk tool options.

Dir. Michael offered a larger explanation of the evolution of risk tools.

Chair Krueger requests the remaining 7 CPC reports be provided to the council.

DOC QA Kurt Aughney addressed the schedule of which programs are scheduled and discussed evaluating full programs (MSP SOP, Nexus) and doing the CPC-GA at smaller programs (T4C, etc.) and hopes to complete all assessments within 2 years. Has assessments scheduled through July at this point and hopes to have about 20 by the end of this year.

- Committee asked for the schedule of those assessments/evaluations

Ms. Young requests a more thorough description of the MORRA and an explanation sheet of what programs are available and what they’re called.

Mr. Canen asked Ms. Sullivan about liability and whether the CPC process is under litigation. Ms. Sullivan advised the tools (Ohio Risk Assessment System (ORAS), Ohio Youth Assessment System (OYAS)) have come under suit but focus is on transparency and availability of information.

Rep. Lynch asked about training to courts, etc. Ms. Sullivan advised they are happy to provide any training as requested.

Benjamin Halverson, Billings City Prosecutor presentation. 17 to 20% of individuals charged with PFMA are DOC probationers for non-violent offense. Advised about 20% appear situationally violent.

- Situationally violent men and women are less likely to recidivate
- Implementing Arizona based system APRAIS (Arizona Intimate Partner Risk Assessment Instrument System) in Billings and Yellowstone County. Handout provided.
- Relayed situation of (redacted) offenders A, B, & C. Advised Billings has highest number of PFMA offenses and advised Billings P&P do not have resources to manage caseload.

Mr. Lambert asked about status of whether A or B are being revoked. Asked specifically about C and why there was no revocation. Says victim C is of opinion DOC goal is to push C to early discharge and claims probation officer has not responded.

Rep. Lynch asked if the case was staffed with the probation officer. Requested Halverson staff the case with P&P and provide CJOC a letter describing the circumstances.
Jamie Rogers of DOC Victim Advocate presented overview of DOC Victim Services and programs. Advised Victim services is separate from P&P and has 5 victim advocates statewide. Also has 42 Victim Impact panelists who travel and speak.

- Chair Krueger expressed concern about DOC approved Safely Plans between the victim and abuser, requested follow-up on this issue.

Dir. Michael asked about resolution of conflicts with victim’s desire and P&P plan.

Break for lunch through 1:15.

Re-convened and public comment was allowed for the morning session.

Rep Jen Gross spoke regarding projects and facilities in her District. Commented on the domestic violence presentation and advised they were looking into the BOCC funds and encouraged continued monitoring of this area.

Laurie Little Dog spoke regarding victim services and spoke regarding her experience. Stated her victim’s impact statement was detached from the PSI and complained her full report was not included in the PSI (only 1 page). Was told her chance to be heard would be at sentencing. Stated she was not able to submit her full impact statement and the missing piece was not delivered until shortly before sentencing. States she wonders about specific victim services and claimed her efforts to reach out and be heard were not answered. Also claimed the BOPP victim’s advocate is related to the advocate at the DOC and claimed nepotism. Argued that victims are not served by DOC liaison.

DOC Kurt Aughney presents the DOC program update, referencing the list of approved evidence-based programs. Described process of approving programs.

Sen. McConnell asked about quality assurance as it pertains to programming. Discussion about the difference between a DOC-based or outside program.

Sen. McConnell followed up about timelines of response to program deficiencies.

SK Rossi asked about where the programs are being implemented and who is being compelled to take them, risk levels, and having more information about numbers ordered into programming and where are the listed programs offered.

Ms. Kelly advised there were no UCCI based programs on the list. Mr. Aughney advised the list might not be current but can be provided.

Chair Krueger requested a program inventory for each facility. Also asked about program plan and include the policy with how these programs are added or not.

Rep. Lynch requested a list of non-approved programs to compare with how DOC has progressed.

Rep. Usher asked about the MASC program
DOC Erika Wimmer presented information regarding determining who is recommended for treatment based on risk level. Also presented numbers of staff trained to conduct CPC evals.

Ms. Young asked for additional information regarding specific curriculum of the programs. Followed up regarding spiritual practices.

Ms. Wimmer advised the spiritual programming doesn't necessarily fall under evidence-based or addressing core risk-reducing issues.

SK Rossi asked whether the EBPs are validated for Native American populations. Also asked for a strategic plan for where the DOC hopes to be.

DOC Programs and Facilities Bureau Chief Megan Coy presented pre-screening rates. Defined the historical practice which took place during presentence phase. Discussed recent change which required a current substance abuse assessment as part of placement screening.

CJOC Member Andy Huff attended.

Discussed 30 day time frame and need for substance abuse evaluations.

Chair Krueger asked if there's a Court order for an assessment why is there no authority. Ms. Coy advised she would have to check with administration.

Rep. Lynch asked about what change required the SA eval requirement.

Mr. Ohman asked about a policy for what the screening process is. Also asked if a private party provided a CD eval, would that be used by DOC. Ms. Coy advised this may be hampered by the 30 day time frame.

Sen. McConnell asked further about Chair Krueger’s question about length of time for CD evals to be completed.

Chair Krueger advised judges have told him probation offices tell judges “we don’t prescreen”. He advised he ordered them to, then DOC says we don’t prescreen without a CD eval. Advised facilities should be able to make these assessments.

Sen. McConnell asked about bodies waiting in jails to get screened.

Chair Krueger asked Ms. Coy to provide the number of requests for prescreening and how many are being screened. Also provide number of actual CD evals from the last quarter and Rep. Lynch asked about wait time for a CD eval and length of stay in jails while pending evals.
Chair Krueger advised we are the only state in the nation which has a DOC commit. Explained process.

Ms. Coy described DOC process in evaluating cases for placement following sentencing.

Chair Krueger asserted the DOC is not above the Court and the system is not designed in that way. Advised the DOC not following the recommendation of the Court is a serious matter.

Mr. Lambert also asserted similar concerns and advised it will be an issue to eliminate the DOC commitment entirely because the Courts would lose what little discretion they have now.

Dir. Michael advised he was surprised about how the MT system works and getting rid of the DOC commit was certainly possible.

Chair Krueger advised the DOC commitment was a progressive idea at the time to manage populations. Talked about decisions not consistent with Courts’ recommendation.

Discussion continued with Dir. Michael, Chair Krueger and several members of committee for possible solutions and further discussion. Issue will likely be moved to the agenda for the next meeting.

- Discussion regarding jail overcrowding and it was noted that DOC increased prison beds to alleviate jail overcrowding but there is still concern of overcrowding without prescreening.

Ms. Tenney clarified Elkhorn treatment does not do CD assessments and explained this process.

DOC PPD Administrator Kevin Olson presented CDFS information utilizing handout regarding numbers.

SK Rossi confirmed the “pending” status has a few hundred applications out there and not trackable because of the pro se nature of the process.

DOC PPD Bureau Chief Kim Lahiff presented process of CDFS application.

Mr. Lambert asked about supervision level if the judge denies the CDFS motion. Ms. Lahiff confirmed in cases who meet the statutory criteria are met, the individual's risk is likely low.

Sen. McConnell asked if restitution was required before CDFS. Yes.
Ms. Tenney asked if treatment dosage hours were considered. No. Suggested this may be a factor to consider. Ms. Lahiff advised this would require a statutory change.

Ms. Young asked if CDFS pro se forms were readily available.

SK Rossi asked if there was an average amount of time from notice of eligibility to being approved. Also, reasons for denial and whether its victim or county attorney objection. Requested additional information about this at next meeting or in the interim.

Rep. Lynch asked Mr. Olson about MORRA or WRNA validation and what the plan was going forward. Mr. Olson confirmed the MORRA is the ORAS instrument renamed; it is an EBT tool that has been validated. Advised it has not been “normed” for Montana but this is a time-based issue.

Break, 15 minutes

Re-convened with Mr. Olson called for a final question regarding daily populations on the website. Mr. Olson advised this was in the works.

DOC Administrative Services Division Administrator John Daugherty regarding Data Tracking and the automated system, Offender Management Information System (OMIS).

Mr. Daugherty presented the CSG caseload study utilizing the report provided to the members.

Request was made for CSG report to be emailed to CJOC members.

Request was made for Data Tracking report to be emailed to CJOC members.

Mr. Daugherty presented the cost avoidance measures. CSG recommended 20 PSI writers, DOC requested 12 and got 6.

Ms. Young requested the projection and actual numbers of inmates related to the JRI.

Mr. Daugherty presented the cost savings projected by behavioral health investment and explained this was not funded; therefore, no savings or results can be realized.

Mr. Lambert confirmed Mr. Daugherty’s assessment. Noted that costs have not gone down and population has gone up.

Mr. Daugherty presented the Tableau software and demonstrated the data dashboard. Link will be sent to the CJOC members to the public dashboard.

Mr. Daugherty presented the Data-tracking spreadsheet.

Chair Krueger opened discussion for new meeting dates.
16:24    Sen. Regier moved to accept the dates on the agenda for future meetings.
16:25    Chair Krueger set February 26 as deadline for written submissions to the chair for the next meetings’ agenda.
16:28    **Public Comment**
          • Nanette Gilbertson request for public release of documentation
16:32    meeting adjourned.