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JUDICIAL COUNCIL OF THE STATE OF NEVADA

"To unite and promote Nevada's judiciary as an equal, independent and effective branch of government."

Committee to Study Evidence-Based Pretrial Release

Summary Prepared by Jamie Gradick

September 30, 2015

1:30p.m. – 4:55 p.m.

Videoconference (Carson City, Las Vegas)

Members Present

Chief Justice James Hardesty, Chair
Judge Heidi Almase
Assemblyman Elliot Anderson
Judge Stephen Bishop
Jeremy Bosler
Heather Condon
Kowan Connolly
Judge Gene Drakulich
Tad Fletcher
Joey Orduna Hastings
Judge Douglas Herndon
Chris Hicks
Judge Kevin Higgins
Judge Cedric Kerns
Phil Kohn
Terri March (Proxy for Judge Tyrrell)
Judge Victor Miller
Judge Michael Montero

Judge Scott Pearson
Judge Thomas Perkins
Judge Melissa Saragosa
Judge Elliott Sattler
Judge John Tatro
Judge Alan Tiras
Judge Ryan Toone
Anna Vasquez
Jeff Wells
Steven Wolfson

Guests

Jim Baker
Ben Graham
Dana Hlavac
Ryan Sullivan

AOC Staff

Stephanie Heying
John McCormick

- I. Call to Order
 - Chief Justice Hardesty called the meeting to order at 1:30 p.m.
- II. Call of Roll
 - Ms. Heying called roll.
- III. Opening Remarks and Discussion of Committee Goals and Objectives
 - Chief Justice Hardesty provided a brief background on the importance of examining potential reform to the current pretrial methods used in the state. Since 2010, there has been an increase in research and progress regarding evidence -based practices in this area.

- Nevada State Legislature's Advisory Commission - identified a lack of consistency in the risk assessment methods and/or tools used among Nevada's courts for pretrial releases.
 - Several courts use no tool at all.
 - Bail system in place is flawed; bail structures and schedules not consistency reviewed and fail to consider possibility of failure to appear or likelihood to commit another crime.
 - Commission recommended a statutory requirement to compel use of risk assessment tool in pretrial release decisions; bill was presented to Senate Judiciary Committee but it was decided this would be better to address through Court rule rather than by statutory change.
- During the JCSN June 2015 meeting, the recommendation was made to create this Committee.
- The Committee's work will be follow closely by the Court.
- The Committee has an opportunity for increase efficiency and fairness in the processes currently used.
- Chair Hardesty briefly summarized the materials provided and encouraged committee members to study and question the research and information available.

IV. Guest Speaker Presentation - Mr. Tim Murray, Pretrial Justice Institute

- *See PowerPoint presentation slides included in meeting materials.*
- Brief discussion was held regarding the role extradition costs in the risk assessment process.
- Discussion was held regarding strength of pretrial court services programs; counties will need to make a decision about whether it is better to invest in effective pretrial court services systems or to put the money towards supporting and overcrowded jail. Chair Hardesty suggested that the focus be not on what other states have done but, rather, on what approach will be best for Nevada. We will "run the math on this."
- Discussion was held regarding the role of the bail bond industry in the current system, what reactions could be expected as the state moves to an evidence-based pretrial system, and whether legislative action could be a consideration to address these issues.

V. Guest Speaker Presentation - Ms. Laurie Dudgeon, Kentucky AOC and Ms. Tara Boh Blair, Kentucky Dept. of Pretrial Services

- *See PowerPoint presentation slides included in meeting materials.*
- Discussion was held regarding use of Judicial Inquiry System - integrates data from courts into one system.
 - Data is a barrier for many jurisdictions; where and how do we go to get the data?
 - Someone needs to collect the data to measure the outcomes; it's important to have that outcome data - many jurisdictions do not know their failure to appear (FTA) or re-arrest rates. It's also important to be able to measure performance outcomes.
- Ms. Blair offered to share their Pretrial Release Information Management System, should we need it.
- Discussion was held regarding Kentucky's abolishment of bail-bonding.
- Discussion was held regarding jail data.
 - Ms. Dudgeon stated they would like to see our jail data and could provide information for the committee to consider.
- Discussion was held regarding time of completing an assessment; depends upon a variety of factors including length of criminal history; decision can be made via phone call with the judge instead of having another hearing.
- Discussion held regarding effectiveness of supervision strategies used as part of the pretrial risk-assessment program; supervision for public safety - standard conditions placed on everyone, "no contact" conditions placed when there's an alleged victim involved in the case.

- Everyone released is monitored for failure to reappear and rearrests; takes more time and staff for supervision than monitoring; only recommend supervision of “high-risk” group.
- Discussion was held regarding the percentage of people charged with murder and released
 - Risk assessment does not take the charge into account so, if first offense, can be charged with murder and still categorized as “low-risk.”
 - Judge has discretion to consider charge in pretrial release decision.
 - Ms. Blair will provide Mr. Wolfson with accurate numbers on this for Kentucky.
- Chair Hardesty asked those attendees involved in court services to speak as to whether they believe there are people in jail pretrial because they cannot make bail.
 - Yes, there are because, currently, there’s no way to ascertain risk
 - Discussion was held regarding number of low level misdemeanor offenders in jail because they can’t make bail.
- Chair Hardesty informed attendees that, if the Committee is going to be effective, it needs to accumulate the data necessary to make informed decisions.
 - Anecdotal stories are not enough; need to secure hard evidence that can be used to as basis for decision making.
 - The underlying question here is do we have people sitting in our jails, pretrial, because we have not completed any form of risk assessment on them and/or because they cannot make the bail that has been set. If the answer to either is “yes” then this is an important exercise.
 - This issue makes Nevada’s counties and the state vulnerable to litigation that is taking place throughout the country.
 - It’s also important to determine which defendants have other things that are preventing them from being released (other than the current charge e.g., a probation hold, fugitive, etc.)
- Assemblyman Anderson asked Ms. Dudgeon and Ms. Blair if any research on a rural model has been completed.
 - Arizona and New Mexico are currently looking at rural models.
 - Mr. Murray informed attendees that NACO put out a publication approximately two years ago on pretrial justice in rural communities that might be useful.
 - Chair Hardesty directed attendees to item 32 in the online meeting materials; these address strategies for pretrial release in the rural areas and this subject will likely be addressed by this Committee.
- Discussion was held regarding utilizing a “hybrid model” that authorizes pretrial release administratively so judge doesn’t have to personally review the complete assessment.

VI. Presentation of the Pretrial System Analysis for the 2nd Judicial District Court - *Judge Scott Pearson and Judge Elliott Sattler*

- *See report included in meeting materials.*
- Ms. Condon provided a brief background of Washoe County’s pretrial services.
- Judge Sattler provided a brief overview of the Criminal Justice Advisory Committee and informed attendees that a goal of CJAC was to effectively and efficiently manage the jail population. Issue of pretrial release reform developed as a subcommittee of CJAC.
 - Risk assessment tool used in Washoe was subjective, not validated, and not consistently utilized.
 - Concerns existed over lack of statutory influence in bail determinations and reliance on arbitrary bail schedules.
- National Institute of Corrections completed the audit in May of 2015; report received June 2015.
 - Results revealed a lack of communication; different definitions, different terms, etc.

- Pretrial Services Steering Subcommittee will be sending a request to CJAC requesting that CJAC adopt the recommendations from the audit; asking CJAC to rebrand and refocus its efforts.
- Judge Pearson has spoken to Dr. Latessa from Ohio regarding the possibility of starting a pilot process using the Ohio Risk Assessment Survey. Ohio’s team will visit in the fall this year to make a presentation to CJAC.
- Judge Sattler would like to see computer systems in place to monitor people from beginning to end.

VII. General Work Plan and Data Collection Discussion

- Currently, support for pretrial services in Clark County is limited to Las Vegas Justice and Municipal Courts; pretrial services processes paperwork for the other courts but they do not conduct interviews or handle releases.
- Chair Hardesty expressed concern regarding the existence of perceptions or understandings that are not facts; for example, who pretrial is delivering service to and who is not receiving any service.
 - Discussion was held regarding issues in rural counties; Judge Perkins has alternative sentencing but does not have an instrument, Judge Tiras relies on Washoe County, White Pine County has nothing in place currently, Winnemucca doesn’t have a validated risk assessment tool or any pretrial services.
- Chair Hardesty asked attendees whether this is a subject the Committee should continue to pursue.
 - Discussion was held regarding formulating an assessment tool; “pulling it off the shelf” is not the best approach. Rather, this group needs to decide in Nevada and, more specifically, in Clark County and maybe more specifically in Las Vegas versus Mesquite – what is the kind of info that will help guide each judge in making his/her decision.
 - There was a general consensus that this Committee needs to move forward; there is a need to address these issues now, rather than later.
 - Discussion was held regarding possible risks in the system; risk outweighs the benefits in this case.
- Chair Hardesty asked those in attendance for input regarding possible development and management of a statewide pretrial services system; this could help consolidate services, increase communication, and validate the tool.
 - Discussion was held regarding possible management by AOC and the need to develop an appropriate management system.
 - Chair Hardesty discussed the need for a “cradle to grave” assessment process; tool begins with intake of defendant and extends through the Parole and Probation’s efforts.
 - Concern was expressed regarding reliability of information; assessment tools will need to take this issue into consideration.

VIII. Future Meeting Dates and Tasks

- Committee members in attendance indicated their availability to attend meetings on November 5, 2015 and December 3, 2015; members not in attendance will be emailed to confirm their availability.
- Chair Hardesty indicated that he will contact individual Committee members regarding “homework” tasks he’d like completed before the next meeting.
 - Chair Hardesty will reach out to specific members to make a report on the assortment of risk assessment tools contained in the materials (Tabs 6-15, 16-22). In completing this, please identify the items that would best capture Nevada’s needs to be used as a starting point.

- Court services representatives and court administrators: please research what is happening with the pretrial services in your respective courts. What do you get currently? Are we going to be able to capture data on FTA and other statistical info that would aid us in evaluating this info? Chair Hardesty will provide a list (via email) of areas requiring statistical info. Please provide information on how you count it, who captures it, and whether or not it can be captured.
- Discussion was held regarding IT's role; this will be essential to understanding what we are getting. This is another issue that impacts whether this should be a statewide program; there are concerns regarding systems not communicating with one another and variances among definitions.
- Judge Saragosa pointed out a need to be mindful of how information is being gathered; critical terms will need to be defined; Ms. Dudgeon and Ms. Blair recommended the Committee read "Measuring What Matters" by the NIC. A copy will be located and distributed to the membership.
- A suggestion was made that each member think about the biggest challenges and/or concerns his/her jurisdiction faces, particularly regarding FTAs.
- Mr. Wolfon suggested reaching out to an outside agency to conduct research in the state and create a matrix.
 - Discussion was held regarding resources; Pretrial institute has pro bono assistance but finding an independent agency to conduct an appropriate analysis and make recommendations would be challenging. Decisions need to be the result of collaboration and consensus from the players.
 - Mr. Dudgeon and Ms. Blair discussed possible grant funding and offered future assistance to the Committee as it moves forward with this project.
 - Chair Hardesty informed the Committee that he reached out to resources to assist and is researching possible funding but feels the Committee can make the decisions necessary.

IX. Adjournment

- Chair Hardesty adjourned the meeting at 4:55 p.m.