

Criminal Justice Coordinating Council (CJCC)

January 18, 2018

8:00 a.m.

VMCCCU-CC

CJCC Members Present: Angela Connolly, Tom Hockensmith, John Sarcone, Arthur Gamble, Jerry Evans, Bill McCarthy, Susie Osby, Dana Wingert, Chad Jensen, Valorie Wilson

CJCC Coordinator: Gary Sherzan.

Others Present: Max Knauer, Clifford Leonard, Jessica Bensley, Brenda Carter, Kenny Nulph, Tom Jackowski, Jered Headrick, Nick Lemmo, Dillon Kraft, Anne Sheeley, Colleen Christopherson, Shannon Evers, Annie Uetz, Christopher Patterson, Steve Johnson, Arnold Woods, Bob Glass, Dee Martin, Teri Sommerlot, Tony Leys, April Knudsen, Stacy Curtis, James Cornick, Betty Andrews

Approval of October 5, 2017, Meeting Minutes:

Moved by McCarthy Seconded by Wilson to approve the October 5, 2017, CJCC Meeting Minutes.

Jail Reports – Frank Marasco, Director, Polk County Sheriff’s Office (handout):

Jail Report statistics are in the handout ‘Jail Operations and Statistical Analysis Initiatives’. If anyone has any questions regarding the numbers, they may contact Frank.

Frank is pleased to announce that all officers have completed an 8-hour mental health first aid training. The course helps the officers to better identify and understand mental illness, to better communicate with inmates, and increase their mental health literacy. An added component is that it also puts a focus on the mental health of the officers themselves. The training was very well received.

Pretrial Release – (No Report)

Jail Diversion – Annie Uetz, Polk County Health Services (handout):

Jail Diversion statistics are in the handout ‘Post-Booking Jail Diversion and Crisis Services Report for People with Mental Illness’. Annie has nothing to add or highlight today.

Bridges Substance Abuse Treatment Program and St. Gregory Update – Tom Jackowski, J.D., CEO

Bridges has been able to begin growing their program again since they have shored up their funding sources. They have eliminated billing Medicaid and have gone to the general public for support.

During the 1st quarter of the year they’ll be adding 10 jail patients, and they anticipate the inpatient program to be full by May 1 (between 60-80 patients under 3.5 care).

Tom Hockensmith asked Tom J. to elaborate on the elimination of Medicaid billing?

Tom J. explained that in 2016, they expended substantial amounts of advanced money and treatments for which payments were promised, but largely unmet. In 2017, when it was solely Medicaid billing, it was the same thing--claims were submitted; processing was delayed; and payments were mostly denied; only a fraction of claims were ever paid. In 2014, 2015, and most of 2016, Bridges had 300 beds filled, plus a waiting list, but with it being harder to get funding, they’ve had to shrink their program, and are at 98 beds today. They have been able to upgrade their curriculum, however, through collaborations with DMACC, St. Vincent d’ Paul, and other community service organizations, which should strengthen the programs’ outcomes.

Pretrial Risk Assessment Screening – Jerry Evans, Director, 5th District Department of Corrections

User training is complete on the use of the Pretrial Risk Assessment tool, including all jail staff that have been trained on how to score and input data from the instrument; Judge Brandt gave a presentation to the judges acclimating them to the tool, and it went live on January 16. There have been some changes to the ICON system, and will continue as needed changes are identified. A meeting will be held once a date, time and venue are arranged to educate the public on the tool, which will be done by those that have had 'Train the Trainer' training. Justice Cady has a goal of having the entire state utilizing the Pretrial Risk Assessment within the next year or two, and Department of Corrections' staff will go out to train and assist other jurisdictions in implementing it. Jerry then turned it over to Teri Sommerlot, Pretrial Release, to talk about how things are going so far.

Teri Sommerlot: Today is Day 3 of using the Public Safety Assessment, and since it is a completely different process for Pretrial Release (PTR) and the courts, they are working more on modifying and refining that process right now than on the assessment itself. Every day the Pretrial Release staff meets to discuss what about the process worked the previous day, what didn't work, how can it be made more efficient, etc. They are monitoring it to be sure that the assessment is working correctly with their system and, so far, it seems to be. Teri acknowledged the cooperation of all entities involved, as it is a change not only for PTR, but for the judges, court administration, public defender's, the Clerk of Court's Office, the County Attorney's Office, the Sheriff's Office, etc. Teri added that there are some adjustments to be made to make the process go more smoothly, but she feels the first three days have gone well.

Chairperson Connolly called attention to the fact that Gary Sherzan, CJCC Coordinator, is back 'on the team' and that he had started working on getting the PSA a while ago. Now the 5th Judicial Department of Corrections has stepped up, the use of the assessment tool is in progress, and she feels it will be a great thing! She asked Teri when they might actually see some numbers on the outcomes?

Teri answered that she hopes to be able to provide some reports by the next CJCC meeting in March. Previously, reports were pulled by hand, but once it is determined what data to compile, it should be easier with ICON, the data-management system. It will probably be about 18 months before enough data is collected to determine real results.

Jerry added that as one of four pilot sites across the state, the 5th Judicial District is working with Harvard who is doing a study on the use of the PSA. As part of that study, while the PSA is utilized for all defendants, only half of them are being sent to the judge residing over the initial appearance so that Harvard can compare the results when the PSA is, and is not, used.

Sheriff McCarthy asked Jerry to talk about what is hoped to be accomplished by the use of the PSA?

They have been advocating for the use of the PSA to give the judges more information to work with in making a decision whether to release or detain a defendant while awaiting trial. The PSA is the least biased, as it asks only about criminal history (convictions, not arrests) and history of 'failure to appear', not race, employment history, finances, etc. It is not intended to replace judicial discretion, and in fact, since its implementation, the judge has deviated upwards in a few cases, deciding that the defendant needed a higher level of supervision than what the score on the PSA recommended.

John Sarcone asked “Isn’t there a requirement of the contract with the State to have 80% compliance?”

Teri said part of the MOU between the state and the ‘Foundation’ to be able to use the PSA includes a *recommendation* that judges *attempt* to use it 80% of the time, but only for O.R. (own recognizance) releases. This is only a recommendation, and to the best of Teri’s knowledge, it won’t be tracked nor will there be any ramifications for not meeting it.

If it won’t be tracked, what is the purpose of having that provision in the MOU?

One of the underlying theories of the PSA is to identify low-risk defendants and get them out of jail as soon as possible, as studies show it’s harmful for them to remain in jail for any length of time, and can affect recidivism up to 2 years later.

John stated that many low-risk offenders have methamphetamine and/or opioid problems, and letting them out could be the worst thing for them, since they’ll have access to the drugs, whereas if they remain in jail, they could have a chance to get clean and make more rational decisions.

Teri explained that in testing the PSA, they added in factors other than criminal, such as substance abuse, but found that they were not as predictive as the criminal factors, and they didn’t change the predictability as well as the nine factors in the PSA. In addition, it’s harder for them to get treatment in jail, and it really isn’t the place to receive it.

Sheriff McCarthy asked about probation violations in which the person committed a very minor crime, but they get caught up in the system, and it’s hard to break away from that. Will the PSA help in those situations?

The PSA isn’t set up for use with probation violations. It is used with people on probation with new charges, and the judge gets the information from the PSA on the new charge, and they know they are already on probation. Probation violations are viewed and handled differently by different judges—one may decide they should stay in jail since they were given probation, but then didn’t follow the rules; another judge may set a post-able bond, etc.

Teri stated that she understands some people have difficulty with the setting, but this assessment tool is being validated all over the country. She has to trust that the statisticians with the Harvard study have been trained in the control group setting, and once they have gathered enough data, they should be able to look at the numbers and determine if the PSA is working as it is intended, or if it isn’t.

Angela asked Teri how many states have done this successfully?

There are at least 10 in various stages all over the country – over 300 jurisdictions – for some it’s the entire state, for others it’s certain jurisdictions, with plans to expand statewide.

Valorie Wilson added that the PSA is all science and evidence-based, and those with concerns should go to the websites and look at the studies. Teri or Jerry can provide them with the web addresses.

Suburban Police Representative – Angela Connolly, Polk County Board of Supervisors

Angela welcomed Major Todd Dykstra with the Des Moines Police Department who is responsible for reporting that the CJCC needs a new Suburban Police Chief Representative. Ankeny Police Chief Gary Mikulec, former representative, retired at the end of 2017.

Data Driven Justice – Angela Connolly, Polk County Board of Supervisors

Annie Uetz did a presentation on the Data Driven Justice Initiative (DDJI) at the October 5, 2017, CJCC meeting following a conference in September at the Behavioral Health Design Institute in MD. This is an update to where they are with the DDJI:

They have met with all the hospitals, the Iowa EMS directors, and all municipal cities to present the platform. They want to be sure everyone is on the same page in collecting and sharing as much information as possible on high utilizers of emergency services, hospitalizations, arrests, etc. Those that attended the conference in MD will be participating in looking at software that would best support the platform to share the information among all first responders, including what is being used in San Diego County, CA, which seems to be better than that used in Johnston County, IA. Angela hopes to have more information by the time CJCC meets in March.

Public Comments

Jessica Bensley, citizen, asked how many staff are in Pretrial Release, and when the decision is made to release someone, is it the Pretrial Release staff that does the supervising/monitoring? She also asked how it is funded, and how absconders are handled?

Teri clarified that they just do the assessment and provide a recommendation to the judge as to whether or not a defendant should be let out on Pretrial Release. There are 10 on staff, but only specific ones provide supervision. If it is found that they aren't able to cover everyone, there are Probation Officers that can also provide it.

Jerry Evans answered the second question: Funding comes from an appropriation from the State, and from local revenue. As for absconders, the district has 11 sworn officers that make up a fugitive team. They start looking first for people released to the highest level of supervision, and work down from there. The Electronic Monitoring System (EMS) is monitored thru the Command Center at Fort Des Moines. They have an inventory of different types of EMS, i.e., Alcohol, GPS, Radio frequency. Whatever level of risk presented by the defendant, they use the least restrictive type of monitoring for that level.

Betty Andrews, NAACP, having requested numbers by race in the Jail Report, and having seen them there before, are they included this time and she just missed them?

Frank Marasco answered that he thought they were in there as usual, but he can get the numbers and provide them to her.

Kenny Nulph, Kenny's Bail Bonds, asked if there are really that many low-risk, first time offenders that don't get out of jail? He went on to say it just seems to him that if you're going to commit a crime, if you want out of jail, why should the taxpayers pay for you to get out? When he posts bond for a defendant, it's only them or their family paying. If they're looking to ease jail over-crowding, there are other things they could do. He had additional comments about how things were done in the past, such as giving bonds to people on probation, etc.

Tom Hockensmith asked Mr. Nulph what tax payer dollars is he referring to?

Mr. Nulph replied with the question "Who pays Pretrial Release?"

Tom cited that Pretrial Release was in place long before this assessment tool was implemented; the 5th District DOC has granted probation and parole for years, and they don't have additional staff out on the street as a result of this implementation.

If PTR is going to be expanded, and more people will be released and need to be monitored, he assumes they'll need more staff.

Valorie Wilson stated that she has an issue with him assuming that because someone has been arrested it means they are guilty, or they could have been overcharged. In America, there is still the presumption of innocence. Being with the public defenders office, her clients are generally poor and can't afford to post bond. Valorie has been with the DOC and PTR for 33 years and is a big proponent of the PSA. She anticipates it will bring the jail population down, protect the public, and get people that don't belong in jail out sooner. With a \$60 per day charge while in jail, when a person can't afford to pay their jail bill, it's a big black cloud that is hard to get out from under, and with huge consequences – they can't get their driver's license or their car registration renewed.

Daniel Clark, 1st Call Bail Bonds, said to Kenny that he isn't arguing for the bail bondsman business, and it sounds like the PSA will actually cause them to lose business, but it is just a tool for the judges to look at. If they see the large number of people on the Failure to Appear list then maybe they won't be RoR'd and bondsman can step in to provide monetary surety. However, he agrees with the PSA system to find the low risk offenders that should be released.

Sheriff McCarthy said he isn't, nor does he think most people would, try to paint the bail bondsman industry as evil, as they've filled a very important role in society, but from a progressive standpoint, he thinks we're on the right track with the PSA, and thinks everybody wants it to be fair. He also clarified that the \$60 per day jail fee is only if a person is convicted.

Chairperson Connolly thanked the Sheriff for clarifying that.

She went on to say we have to give this a shot. She thinks it's a great process and sees it as just another tool in the toolbox. It's very expensive to house people in jail, and it can lead to them losing their jobs, etc., and granted they were arrested for breaking the law, but not all are guilty.

Jessica Bensley asked if they would be going back and looking at people that are in jail now, to see if they can be released?

The answer is no. The assessment is only being used for people arrested since it was implemented.

Jerry Evans said there will be an opportunity to address all of these questions and concerns once a date and venue for a stakeholders meeting is arranged. They will announce the details when they have them.

An announcement will be sent out with the date of the next CJCC meeting.

Meeting adjourned 8:48 a.m.