

Jail Overcrowding Task Force

Minutes

August 1, 2019

10:00 -11:00 a.m.

State House, 200 W. Washington Street, Room 319

Members Present:

Chief Justice Loretta H. Rush, Indiana Supreme Court, Chair
Rep. Gregory Steuerwald, Indiana House of Representatives (via conference call), Co-vice Chair
Rep. Ragen Hatcher, Indiana House of Representatives (via conference call)
Sen. Mike Gaskill, Indiana Senate, Co-vice Chair
Sen. J.D. Ford, Indiana Senate
Douglas Huntsinger, Executive Director Drug Treatment Prevention, Governor's Office
Julie Lanham, Indiana Department of Correction (proxy for Commissioner)
David Powell, Executive Director, Indiana Prosecuting Attorneys Council
Bernice Corley, Executive Director, Indiana Public Defender Council
Tracy A. Brown, Tippecanoe County Commissioner
Sheriff Brett Clark, Hendricks County, Indiana Sheriffs' Association

Others Present:

Hon. Steven David, Indiana Supreme Court
Hon. Christopher Goff, Indiana Supreme Court
Mary Kay Hudson, Executive Director, Indiana Office of Court Services
Michelle Goodman, Staff Attorney, Indiana Office of Court Services

Meeting Discussion:

Chief Justice Rush called the meeting to order and reviewed the task force's legislative charge. The task force received information from past reports on the jail population statewide from 2017 and 2018.

The task force then outlined topics for discussion regarding jail overcrowding and identified areas where additional information is necessary to assist the task force and local stakeholders with addressing jail overcrowding issues, including:

- Identify factors that cause individuals to go into jail
- Access to jail data to assess who is in the jails and the reason for the incarceration
- Bond schedules, inability to pay bond, unwillingness to post bond
- Keeping low level, non-violent defendants out of jail with alternative approaches (i.e. cite and release programs)
- Restorative justice approaches
- Case processing strategies (prosecutors/public defense/courts)
- Community supervision violation response strategies
- Treatment opportunities and barriers, including jail treatment
- Enhancing reentry support and resources (i.e. housing/employment)
- Resource allocation and utilization – full use of work release, examine how H.E.A. 1006 funds are allocated
- Prevention strategies

Jail Overcrowding Task Force

- Local processes and procedures impacting use of jail beds to develop best practices
- Use of technology within jail – use video in place of transport for hearings, etc.
- Data collection – define necessary data elements, standardize method for collection with clear definitions
- Regional jail options

Informational presentations for taskforce:

- Dr. Brad Ray – Recovery Works evaluation
- Division of Mental Health and Addition– continuum of services; PEW survey results
- Appriss – current jail data available and limitations
- Information from local jails regarding access to detailed reports
- Trends based on court data – criminal/ordinance violations/infractions/failures to appear/Abstract of judgments
- Court case filing data

The task force discussed the requirement for regional meetings and logistics. Ms. Hudson reported to the task force that the Association of Counties offered meeting space in French Lick on September 30th during their annual conference. After discussion, the task force agreed to accept the offer for hosting one of the regional meetings.

In addition, the task force outlined logistical items for consideration in hosting these regional meetings, including meeting agendas, notices, format for public testimony, informational presentations, etc. Suggested locations include Marion County (Indianapolis) and Vigo County (Terre Haute).

The task force discussed the need for current jail data and the challenges associated with this data. Sheriff Clark volunteered to help identify individuals who can provide local data reports. The Indiana Sheriffs' Association will also be contacted for the status of any jail report updates.

The task force also received an update on the status of the requirements for a Request for Proposal to improve Indiana's victim notification system and discussed the opportunity to address data needs as a component of this project.

The task force will be contacted when the next meeting is scheduled.

Jail Overcrowding Task Force

Minutes

August 23, 2019

1:00 pm – 2:30 pm

State House, 200 W. Washington Street, Room 319

Members Present:

Hon. Steven David, Indiana Supreme Court, proxy for Chief Justice Loretta H. Rush, Chair
Rep. Ragen Hatcher, Indiana House of Representatives (via conference call)
Sen. Mike Gaskill, Indiana Senate, Co-vice Chair
Sen. J.D. Ford, Indiana Senate
Douglas Huntsinger, Office of the Governor
Robert Carter, Commissioner, Indiana Department of Correction
David Powell, Executive Director, Indiana Prosecuting Attorneys Council
Bernice Corley, Executive Director, Indiana Public Defender Council
Tracy A. Brown, Tippecanoe County Commissioner
Sheriff Brett Clark, Hendricks County

Members Not Present:

Rep. Greg Steuerwald, Indiana House of Representative
Ralph Watson, Hamilton County Community Corrections
Superintendent Doug Carter, Indiana State Police

Others Present:

Hon. Christopher Goff, Indiana Supreme Court
Mary Kay Hudson, Executive Director, Indiana Office of Court Services
Michelle Goodman, Staff Attorney, Indiana Office of Court Services
Dr. Kristen Dauss, Indiana Department of Correction
Steve Luce, Indiana Sheriff's Association
Dave Wedding, Vanderburgh County Sheriff
Sergeant Brent Counts, Vanderburgh County Sheriff's Office
Julian Winborn, Indiana House Democratic Caucus
Chris Naylor, Indiana Prosecuting Attorneys Council

Meeting Discussion:

Justice David called the meeting to order. The task force reviewed the draft meeting minutes from August 1, 2019. Mr. Powell moved their approval and Sen. Gaskill seconded the motion. The motion passed unanimously.

The task force received an update on availability of Indiana jail data. Mr. Steve Luce, Executive Director, Indiana Sheriff's Association, reported his office is currently conducting the 2019 jail data survey and approximately one-third of the 91 jails have already replied. Mr. Luce will provide updates and a presentation of results when the survey is closed.

Sheriff Dave Wedding of Vanderburgh County reported on their local population trends and what categories are most impacting their local jail numbers. He also mentioned the local surrender program

Jail Overcrowding Task Force

and emphasized the need for community services to help those outside of the jail to prevent them from committing new crimes or returning to jail.

Sheriff Brett Clark of Hendricks County provided the task force with sample reports from the local jail management system. He discussed some of the variation on coding statuses and other data points needing better definitions to allow more precise assessments of current population categories. He answered questions on local processes for releasing individuals and challenges associated with current practices. He emphasized that each county has variations but there will be common themes.

The task force discussed the opportunity to work on the victim notification RFP requirements and the availability for courts using the Odyssey case management system to opt into text notification reminders for court hearings.

Mr. Luce and Ms. Hudson provided additional information about the Appriss System and reported they will be meeting on September 4, 2019 to discuss what opportunities there are for improving current jail data reporting.

The task force reviewed the dates for regional meetings. September 30, 2019 is confirmed in French Lick from 1:00 p.m. – 4:00 p.m. Other proposed dates include October 30, 2019 and November 6, 2019 for central and northern locations. The task force discussed looking at alternative dates for November depending on the selected location. Additional locations of Madison County, Shipshewana at the Sheriffs Association Annual meeting, area Ivy Tech campuses, Marion County, and Hendricks County were suggested for consideration.

Next, the task force reviewed the proposed topics and list of presenters for regional meetings. The task force discussed having additional topics regarding: (1) medical services and issues, including detox services in addition to jail treatment; (2) parity of offense levels to see if adjustments need to be proposed; (3) current status of jail facilities and the need to shift toward more rehabilitative efforts similar to the Department of Correction facilities; (4) added local costs associated with pre-trial custody, which reduces the overall time and costs associated with someone serving at Department of Correction. It was also suggested task force members consider tour some local jails.

Regarding logistics for public testimony at the regional meetings and public comment, the task force requested a standard introduction providing a basic overview of the membership, purpose of the task force, and other foundational information (meeting expectations, procedures, time limits, written materials, etc.). Other items discussed included a protocol for the presentations (material deadline, areas of focus, time limits), methods to sign up in advance and day of regional meeting for public testimony, process for receiving written comments, and method to enhance general information sharing among regional locations.

The task force reviewed the proposal regarding the final report due December 1 and recommended the members consider a structure for organizing and prioritizing the final recommendations.

Ms. Hudson provided the task force with information on the October 4, 2019 Pretrial Summit and information on registering for this training opportunity.

The next task force meeting is September 30, 2019, 1:00 p.m. – 4:00 p.m. at the French Lick Resort.

Jail Overcrowding Task Force

Minutes

September 30, 2019

1:00 pm – 4:00 pm

French Lick Resort, French Lick

Members Present:

Hon. Steven David, Indiana Supreme Court, Designee of Chief Justice Loretta H. Rush, Chair

Sen. Mike Gaskill, Indiana Senate, Co-vice Chair

Rep. Greg Steuerwald, Indiana House of Representatives, Co-vice Chair

Sen. J.D. Ford, Indiana Senate

Douglas Huntsinger, Office of the Governor

Robert Carter, Commissioner, Indiana Department of Correction

David Powell, Executive Director, Indiana Prosecuting Attorneys Council

Bernice Corley, Executive Director, Indiana Public Defender Council

Tracy A. Brown, Tippecanoe County Commissioner

Sheriff Brett Clark, Hendricks County

Ralph Watson, Hamilton County Community Corrections

Members Not Present:

Rep. Ragen Hatcher, Indiana House of Representatives

Superintendent Doug Carter, Indiana State Police

Others Present:

Hon. Loretta H. Rush, Chief Justice of Indiana, Indiana Supreme Court

Hon. Christopher Goff, Indiana Supreme Court

Rep. Randall Frye, Indiana House of Representatives

Mary Kay Hudson, Executive Director, Indiana Office of Court Services

Michelle Goodman, Staff Attorney, Indiana Office of Court Services

Meeting Discussion:

Chief Justice Loretta H. Rush welcomed those attending and opened the meeting by introducing Justice David who will be chairing the Task Force.

Justice David began by introducing the Task Force members and reviewing the objectives of the Task Force under the statute.

Next, Sheriff Brett Clark provided opening remarks to those attending and emphasized the importance of this and upcoming meetings to address issues of jail overcrowding.

Justice David then invited Representative Frye to address the Task Force. He explained the reasons for creating the Task Force and the need to understand why we have jail overcrowding and the various factors involved to address this situation.

Representative Steuerwald next addressed those attending to provide background on criminal code reform efforts via HEA 1006-2014, which was the first such reform since 1976.

Jail Overcrowding Task Force

Justice David then asked the Task Force to review the August 23, 2019 meeting minutes. Senator Gaskill motioned to approve the minutes and Rep. Steuerwald seconded the motion. Motion carried unanimously.

The meeting continued with presentations requested by the Task Force. The first presentation was made by Association of Indiana Counties Executive Director David Bottorff. He began by recognizing ongoing cooperation with Indiana Office of Court Services and the Supreme Court on drug courts, Evidence-based Decision Making Initiative, and the Opioid Summit. Mr. Bottorff outlined the progress made in other states who have also experienced criminal code reform efforts and described current efforts in those states as a phase two focusing on services for those in the criminal justice system. He emphasized local differences in Indiana regarding available services in similarly sized counties and how each address the Level 6 populations. He provided data showing the jail population in 2008 compared to current numbers showing that counties are spending more on jail services than previously. National statistics show more people are held in jail pretrial and reported various reasons on why individuals are not bailing out. He also showed information regarding jail capacity and discussed reasons to build or expand jails. Mr. Bottorff also provided information from a national survey on what the public expects from jails and jail services, which is different than the historical focus of jails. He then encouraged more funding for pretrial services and expanded access to services at pretrial, proposed immediate solutions (housing inmates in other counties, suspending incarceration of non-violent offenders on arrest warrants, increasing public defender assistance for indigent detainees, funding additional court staff so cases can be processed quicker, providing more robust treatment programs), requested increasing reimbursement rates for per diem; review the jail local income tax and percentage for operations and capital improvements to provide greater flexibility locally; suggested review of the public safety tax and levy amounts, suggested looking at the Level 6 populations to see if some offenses should be increased or reduced, suggested making misdemeanor population eligible for Recovery Works, recommend considering how any opioid lawsuit funds would be provided to the counties for programs and services, and consider the impact of inmate health care coverage availability since benefits are suspended while in jail but remain eligible in community corrections.

Joining Mr. Bottorff was Mr. John McKnight representing an insurance company for county jail operations. He discussed the need for good laws that aid counties to address local operations since liability for the counties are impacted by needed renovations and overcrowding. He described how overcrowding increases wear on the facilities structures and need for jails to be ADA compliant and the increase range of disabilities covered by ADA. He also described the staffing needs and changing demographics of the jail population to include more females and the challenges posed in them housing within existing facilities. He also discussed the need for treatment and alternative programs as well as improved handoff to community supervision programs.

Bernice Corley asked about the idea of phase two focus on funding services within counties, asking what AIC sees as needed and whether others will use services in local community. Mr. Bottorff replied that if programs are more available locally such program would be used while still holding individuals accountable. Since jails are not equipped as treatment centers the handoff to the community is critical and may need to reexamine sentencing again as a part of this evolution.

The next presentation was made by Indiana Sheriffs Association Executive Director Steve Luce beginning with a review of the Constitutional duties of the sheriff. He also outlined the challenges with gathering real time jail data and the current method for capturing data via surveys is slow and unreliable. He reported that the Association is working closely with Department of Correction, the Governor's Office,

Jail Overcrowding Task Force

and Indiana Criminal Justice Institute on bringing together some real time data among the various jail management systems. In discussing pretrial practices, he stressed the need for decision makers to strike a balance on the use of jail resources, considering due process and public safety concerns, and the need for communication and efficient court systems. He reviewed seven main reasons for individuals to be in the jail and emphasized the different population than historically seen which requires case management upon release. He provided some national statistics on arrest populations, information from the Federal Bureau of Justice Statistics showing inmates incarcerated once, even for a short time, are more likely to be reincarcerated in the future, and the costs associated with housing pretrial detainees as reported by Pretrial Justice Institute. He also reported on a model program from Pennsylvania showing benefits of pretrial risk assessments and processes, which are steps at intake into the jail to direct individuals to the proper resources quickly. He also described a dashboard used in California to provide real-time jail data and information, explaining a similar process could benefit Indiana. He reported on the overcrowding information from the recent jail survey and outlined the consequences of the status quo and potential liabilities to the county and sheriff.

Senator Ford inquired about Mr. Luce's visit to Pennsylvania and whether any local sheriffs are doing similar processes. Mr. Luce reported that some sheriffs do direct individuals to resources, but some have difficulties with understaffed operations to address the amount of information needed. Senator Ford reported visiting local jails in his district and emphasized the need to look at how individuals get into jail and why arrested.

The final presentation was from Mary Kay Hudson, Executive Director, Indiana Office of Court Services on behalf of the Office of Judicial Administration. She presented data on criminal case filing trends, including a breakdown of felony and misdemeanor numbers. Next, she presented information that is available from the sentencing abstracts in felony cases, including the reporting of pretrial credit time determined at the time of sentencing. Ms. Hudson emphasized that pretrial credit time reported on the abstract was dependent on the individual case circumstances and this data is too general for drawing conclusions. This category of information requires case level and county level data, including detailed jail data. She also provided an overview of the pretrial and sentencing and credit time calculators by Trial Court Technology, amendments to the Abstract due to legislative changes, and the addition of better tracking of failures to appear warrants and reporting. She also discussed the implementation of Supervised Release System (SRS) within community supervision agencies, which will enhance available data. She concluded her remarks in providing an overview of key considerations and some examples to illustrate the complexity at the individual case level impacting the jail populations.

Bernice Corley inquired on the use of text messaging reminders and why more counties are not taking advantage of the program. Ms. Hudson replied that more outreach is needed to those counties. Representative Steuerwald inquired about the category of abstract data showing pretrial credit more than sentenced time and wondered how many days were spent beyond what was required. She responded that a deeper analysis is needed to answer this question.

Sheriff Clark inquired how some Level 6 offenders are eligible for Department of Correction. She responded that the Prosecutor would be able to inform the court. He also asked if there was a consistent definition of failure to appear and what efforts are made to become consistent. She replied that judges still maintain discretion whether to issue a warrant and IOCS is working to track this better. Sometimes attorneys request continuance or time to locate client, so warrants issued is the most measurable indicator, but need to get more data from jail management systems and Odyssey to know more.

Jail Overcrowding Task Force

Dave Powell also stated that a portion of failure to appear could be the result of body attachments on civil matters and more data is needed on those instances.

The next portion of the meeting was taking public testimony.

Owen County Sheriff Sam Hobbs discussed the oath to serve and protect, and while jail is not designed to facilitate addiction services more funding is needed if this will be an expectation, which is beyond the county tax resources. He stated that individuals need to rehabilitate within the community and just letting them in and out of the facility is not working.

Liz Morris, Dearborn County Council and AIC, spoke in favor of the increased per diem to the jails and highlighted the Jail Chemical Addiction Program (JCAP), which was started by Judge McLaughlin. She noted the program started with 8 male inmates and made jail space available so the program can include 16 males and females. Those participating in the program must apply and their attorney also signs off on participation. She offered to share more information with other counties.

Ken Paust, Wayne County, spoke about the impact of individuals with mental health needs. He described the cycle of transporting individuals to the hospital for emergency and immediate detention evaluations and often the person fails to follow through upon release and ends up back in the jail and the staffing resources required for transporting individuals to various facilities.

Sue Ann Mitchell, Kosciusko Council President, presented on receiving a grant from the Attorney General for JCAP. Their voluntary program has been productive so far with three classes offered. The program is most effective by housing participants separate from general population and the program completion has no impact on the sentence someone receives. The county program began with a volunteer coordinator which is now a county employee position.

Larry Hesson, Hendricks County Council, provided an overview of county efforts to comply with a federal court order regarding jail population by starting a work release program with a \$4 million bond issue to build the facility. The program is a sentencing option to keep individuals working. In addition, the county has been one of the Evidence Based Decision Making Initiative pilots with two funded probation officers screening pretrial inmates. Even with these programs working well, he reported the county is still building a jail and the current reimbursement level is not adequate and fails to account for everything needed for housing offenders.

Sheriff David Wedding, Vanderburgh County, reported that his facility has a release rate of 90% with an average length in jail of 19 days. He also noted having 170 Level 6 offenders in custody. He reported victims expect individuals to be held and some individuals will not enroll in treatment programs since it would be an admission of guilt. He reported the need for jails to be able to keep inmates in to maintain safety for them as well as the community and most individuals released from jail can afford bail and are mostly for non-violent crimes. He also explained many released from jail will receive additional charges as well.

Sheriff Mike Nielsen, Boone County, discussed rehabilitation within jail for addiction and mental health needs, which are often intertwined. He described the impact of the public safety local income tax, effective in 2017, and the impact annexation has on public safety distributions. He reported that the funds resulted in 40 new officers in Boone County, which yields increased arrests impacting the jail and other criminal justice stakeholders. He suggested a need for better distribution of funds to support these efforts since jails need to look more at rehabilitation and transition housing needs.

Jail Overcrowding Task Force

Elise Nieshalla, Boone County, also discussed the need for a new formula to address local public safety funding these local responsibilities and the disparities among the county and local jurisdictions.

Justice David also reminded the audience of the web page where additional information on future meetings would be posted. He then called upon Tracy Brown, Tippecanoe County, for closing remarks.

Mr. Brown thanked everyone for attending and the legislators for creating the Task Force. He described his local experience with building a new jail and increasing demand for space. He reported this conversation is very timely in Indiana and we need to have the right people in jail for the right time while looking for alternatives and working toward better real time jail data.

The meeting adjourned at 3:50 p.m.

Jail Overcrowding Task Force

Minutes

October 30, 2019

1:00 pm – 4:00 pm CDT

Ivy Tech Auditorium– Valparaiso, IN

Members Present:

Hon. Steven David, Indiana Supreme Court, Designee of Chief Justice Loretta H. Rush, Chair
Sen. Mike Gaskill, Indiana Senate, Co-vice Chair
Rep. Greg Steuerwald, Indiana House of Representatives, Co-vice Chair
Rep. Ragen Hatcher, Indiana House of Representatives
Douglas Huntsinger, Office of the Governor
Robert Carter, Commissioner, Indiana Department of Correction
David Powell, Executive Director, Indiana Prosecuting Attorneys Council
Bernice Corley, Executive Director, Indiana Public Defender Council
Tracy A. Brown, Tippecanoe County Commissioner
Sheriff Brett Clark, Hendricks County
Ralph Watson, Hamilton County Community Corrections

Members Not Present:

Sen. J.D. Ford, Indiana Senate
Superintendent Doug Carter, Indiana State Police

Others Present:

Hon. Christopher Goff, Indiana Supreme Court
Mary Kay Hudson, Executive Director, Indiana Office of Court Services
Michelle Goodman, Staff Attorney, Indiana Office of Court Services

Meeting discussion:

Justice David welcomed those attending, introduced the task force members, and provided an overview of the task force objectives. He also thanked Ivy Tech Community College for providing meeting space and Sheriff David Reynolds and his staff for the comprehensive jail tour this morning.

Representative Hatcher next provided opening remarks discussing the impact on the individuals arrested and their families, employment status, etc. emphasizing the need to examine the large impact for systems and stakeholders.

Representative Steuerwald then provided an overview of the criminal code reform efforts under HEA 1006-2014 noting it was the first comprehensive reform in Indiana since the 1970's. Emphasizing the

complexity of the jail population, he highlighted some statistics on the number of jails at capacity last year and the impact of those held pretrial on the population and the time these individuals spent in jail compared to sentenced time.

Justice David directed the Task Force to the minutes from the September 30, 2019 meeting. Senator Gaskill motioned to approve the minutes and Sheriff Clark seconded the motion. The motion carried unanimously.

The meeting continued with the presentations requested by the Task Force. The first presentation was made by Judge Sally McLaughlin, Dearborn Superior Court, on behalf of the Office of Attorney General, on the Jail Chemical Addiction Program (JCAP). She reported the program began after she took the bench as a trial judge as an effort to do something new to address addiction issues, noting the jail was always over capacity. She emphasized heroin and opioid use was a large factor for their population. She provided a summary of the research study conducted by Indiana University showing the program did reduce recidivism and stated they are working on a new study with the university. She reported their program began in 2007 after visiting a similar program in Boone County. The Dearborn County Sheriff made space available within the jail for this evidence-based program. The program is led by master's level social workers and is certified by the Division of Mental Health and Addiction. Those screened for the program have moderate or high need for substance use and many are pretrial status, but post sentence and probation violators are also included in the program. She reported that for those completing the program pretrial, their plea agreements generally include local placements (problem-solving courts or community corrections) rather than going to Department of Correction. She also noted their county jail is not overcrowded due to a recent expansion, but the program is helping treat those who do not have a place to go for treatment and making the community safer. She reported the Office of Attorney General recently provided funding to other counties to start JCAP programs.

Commissioner Carter asked if the program participants received time cuts for completion. Judge McLaughlin reported they are not provided time cuts, but completion does impact the terms of any plea agreement often translating to a sentence to community supervision.

Sheriff Clark, noting the program is 90 days, asked how the county addressed transition to next steps for participants. Judge McLaughlin reported the county recently developed some local housing options. She reported her community sees major drug issues as a matter of community safety. She emphasized the participants make these decisions with their attorney and, while they may ultimately serve the same overall time, their results are better with individualized case planning and connections to treatment services.

The next presentation was made by Mary Kay Hudson, Executive Director, Indiana Office of Court Services and Dan Miller, Indiana Prosecuting Attorneys Council, on behalf of the Justice Reinvestment Advisory Council (JRAC) and Evidence Based Decision Making Initiative (EBDM) Pretrial Workgroup. Ms. Hudson provided an overview of JRAC established in 2015 by the General Assembly as a part of the criminal code reform efforts. She explained the purposes of the Council to evaluate local programs and make recommendations on grant funds provided by Department of Correction and Division of Mental Health and Addiction associated with HEA 1006. She advised the Task Force on the annual reports required from JRAC and highlighted last year's report since it was the first joint report with Indiana Criminal Justice Institute on impacts of HEA 1006. Next, Ms. Hudson provided an overview of the EBDM Initiative in reviewing local criminal justice processes to identify opportunities for improvements. She reported that EBDM and JRAC have partnered together due to significant overlap on issues and

membership and are working to formally merge these efforts through legislation to expand the scope of JRAC into broader criminal justice topics and increase stakeholder representation on JRAC. She reported that this level of expansion would allow JRAC to continue to review topics related to jail overcrowding and recidivism reduction. Ms. Hudson also added an additional partnership example between JRAC and EBDM in that HEA 1065-2019 charged JRAC with separately publishing a report on pretrial release.

Mr. Miller next described Indiana's work to address pretrial release practices. He described the two parallel paths that focused on this area, one being then Chief Justice Dickson's committee to study pretrial release and the second was Grant County's local EBDM work. He emphasized the Grant County's EBDM work was the impetus for allowing Indiana to apply for state level EBDM support and technical assistance leading to six additional counties being added to the EBDM effort. He provided an overview of the local review and analysis each EBDM team undertook to identify areas for improvement, with pretrial being a common area of focus. Eventually the EBDM Pretrial Workgroup and the committee established by Chief Justice Dickson merged resulting in the availability of technical assistance resources to 11 pretrial pilot sites on pretrial release practices. The emphasis within all sites is on local collaborative teams to address policies and process enabling them to work toward evidence based, high functioning pretrial practices. These practices include use of assessments, reminder notifications, attorneys at initial hearings, violation response, and data collection to measure outcomes. Mr. Miller also reported approximately 14 additional counties have reached out to the workgroup for assistance with pretrial release practices, and he described the process of state team members working with these additional counties to provide the requested assistance. He also provided an overview of some of the key trainings that have been made available to the pilot sites and the statewide Pretrial Summit held on October 4, 2019. Next, he reported the workgroup was proposing rules for a pretrial release certification program, like what is currently used for problem solving courts, to implement evidence based pretrial practices. He also reported on the need to consider state resources to aid in supporting new counties and recognized the need to assist local teams when stakeholder positions transition to new members.

David Powell commented that endorsing the JRAC and EBDM legislative proposal could be one of the recommendations of this Task Force.

The next topic for discussion was on jail medical services. Two providers currently working in Indiana were available to present. First, Quality Correctional Care, represented by Lisa Scroggins and Dr. Michael Person, provided an overview of their organization, which started in 2011, and reported a 24% increase in inmates being served by their organization in the jails. They reported while HEA 1006 has impact on the jail population those impacts vary by county and reported on the increased prevalence of mental health and substance use disorder as a contributing factor to the jail populations. They also reported on the increasing female population within the jails. They reported many individuals within the jail present with chronic illness and mental illness often combined with substance use issues. Upon release, many of those individuals do not follow up with community services and fail to take prescribed medications, leading to repeat incarcerations. They also described the variations in the hours nurses and doctors are available in the jail, the process for individuals who are under the influence, suffering from mental health issues, or injured in an accident being processed through hospital emergency rooms before coming to the jail to ensure medically stable, and the process for transporting individuals for medical services that are not available within the jail. In describing the impact on medical care within overcrowding situations, they indicated that jail staff resources impact the ability to move individuals within the jail to receive medications and services which is further impacted by staff turn over and time involved in hiring and training qualified positions. In addition, there is increased movement between

counties due to overcrowding impacting the delivery of jail services. They discussed pending legislation at the federal level regarding the Medicaid Exclusion law, reported they track data that may be helpful, and assisted with approximately 7,000 HIP applications per year. They reported recent certification by Division of Mental Health and Addiction and continue to work with community mental health providers prior to a person's release from jail.

The second presenter was Advanced Correctional Health, represented by Dr. Travis Schamber and Kelsey Gossett. They provided an overview of their organization which operates in 15 states and provided the Task Force with a handout outlining the challenges and opportunities in comparing patient care inside the jail and outside of the jail. Dr. Schamber described an example of an individual he treated in his general practice noting when the person went into the jail often the person would experience medication changes, the challenges for the community provider to address issues and medication needs while in the community upon release, and the barriers individuals face in the community to access services (i.e. transportation). He also highlighted the challenge with opioid use disorder and even with medication assisted treatment (MAT) within the jail, specifically that there is a lack of community providers available to continue that level of care. He emphasized looking at these issues from a health care standpoint and an access to health care issue noting that often individuals leaving the jail are in a more healthy condition but go off their medications and return in an unhealthy state. He noted the health care system is fractured and difficult to transfer information between jail medical and primary care physicians and the need to improve the transition to care upon release. He also discussed federal legislation and the impact on MAT options in the future. Ms. Gossett reported one challenge with this population is patient motivation to change since individuals enter the jail in crisis, they are not always ready to make the necessary changes. She also reported linking patients with community resources and getting the patients to the follow-up appointments are additional challenges, especially since the time of release is the first opportunity for individuals to relapse and engage with negative peers or family. She reported on work being done in Hendricks County to use video communications to work on mental health appointments with providers prior to release. She emphasized the difficulty in getting services within the state hospitals and on average a person's wait is five months before getting placement. She also reported individuals with mental health issues in the jails do not respond well to housing within the general population. She reported they only hire licensed professionals and adhere to both state and national standards for treatment services. She concluded by also emphasizing the need to assist jail staff to mitigate secondary trauma in working with the jail populations and the need for specific mental health training to help officers identify mental health issues and properly respond to these situations.

The final presentation was from Porter County to provide information on their local programs and initiatives. First, Sheriff David Reynolds thanked the Task Force for touring their local jail and seeing what they are doing with programs and services and noted the jail uses Quality Correctional Care who has been responsive to their requests. He encouraged the Task Force to not just identify issues with jail populations, but to identify solutions to the various problems recognizing each county's differences (i.e. some need a large jail due to general population growth, some may have system issues that need to be addressed). He highlighted two key issues that need solutions, mental health services and an increasing female population.

Sheriff Reynolds then introduced Tammy O'Neill, Director of Community Corrections and she introduced the members of the local EBDM team who discussed their local programs. First, Don Evans, local EBDM Chairperson and Community Corrections Advisory Board Vice Chairperson, described the purpose of the local collaborative team and the benefits of the dialogue to work toward a joint vision on justice system

issues even when there are areas without pure agreement. He emphasized the need to converge around shared ideas even within an adversarial system. Next, Melanie Golumbeck, Chief Probation Officer, provided an overview of their local pretrial release program. She reported that the program begins at intake to the jail with the jail staff identifying who needs an assessment by community corrections staff. Once the assessment is completed a report is completed and provided to the judge, prosecutor, and defense attorney. The public defenders are available at initial hearing and after reviewing the report and arguments of counsel, the court makes the release decision, which includes no bond, bond amount, or pretrial supervision with individualize conditions. The court considers imposes pretrial supervision conditions for public safety reasons keeping in mind these individuals are not yet guilty of an offense. Those in pretrial services have contact with a pretrial officer for court hearings or to address violations. Pretrial officers can respond to minor violations, and major violations or repeated minor violations are addressed by the court. There is a process in place to look back to see who is in jail if not released as well as tracking data to measure program outcomes. The team reviews the data and can adjust processes if needed. She noted that keeping low risk individuals in jail increases their risk by allowing them more contact with high risk individuals and increasing opportunities to lose positive things like housing, jobs, etc. She concluded by reporting the county has experienced a significant decrease in jail population, but noted this program is only a part of that change.

Commissioner Carter asked if the IRAS scores can increase or if scores are static based on zip codes? Ms. Golumbeck responded the score is not tied to zip codes.

Bernice Corley asked about the process for reviewing assessment information. Ms. Golumbeck said the assessment information is included in the report provided to the judge and attorneys, so everyone has access to the information.

Tracey Brown inquired about the time to conduct the assessment and the number of assessments per year. She responded that the length of the assessment can be addressed with the assessment staff and while they are reviewing data to make changes to the program (i.e. adding in misdemeanor offenders) numbers are going up, but it is currently about 800 assessments per year.

Representative Steuerwald asked whether there was a matrix for responding to pretrial and probation violations. She reported there is a matrix to address pretrial violations and pretrial officers can address minor violations and these individuals are still not in custody when the violation is being addressed. She reported that major violations require the court to be notified and the court will determine whether to modify or revoke bond.

Justice David inquired if a similar matrix existed for probation violations and she reported there is one for probation violations.

Bernice Corley asked if the matrix helps resolve technical violations short of alerting the court. Ms. Golumbeck said yes, but repeated technical violations or major violations are still referred to court.

Amesha McDonald, Community Corrections, then discussed the assessment process for the pretrial program. She outlined the resources provided at the jail (i.e. interview room, access to office equipment, jail staff to escort individuals within the jail, etc.). She reported most interviews take 10 to 15 minutes and assessment staff already have the criminal history information. Once the interview is completed, the assessor reviews other information available before scoring the assessment. She provided an overview of the seven assessment items and reported the tool measures failure to appear

or new offense, but not areas for behavior change. The assessment results are compiled into the report that goes to the court and attorneys prior to the initial hearing to allow for a meaningful first appearance. She provided an overview of those eligible to be IRAS certified and reported the assessment process is voluntarily. Assessments are completed for all courts, but only three are currently pilots for the pretrial release program. She also reported that the public defender will also meet with the person assessed prior to the initial hearing. Ms. McDonald concluded by providing an overview of their Recovery Connections support program, which is free and offers prosocial activities for the individual and family members.

Bernice Corley inquired on who received the pretrial assessment. Ms. McDonald respond that anyone arrested will receive the assessment unless charged with murder or treason. She also reported that there are three pilot courts to allow for a comparison group within the county. She reported the pretrial officers make recommendations to those courts, but the court makes the release decisions. The non-pilot courts do not have public defenders at initial hearings. There was a brief discussion on when public defenders are appointed for those courts.

Ralph Watson asked if the pretrial officers can release an individual without appearing in court. Ms. McDonald responded pretrial staff do not release an individual after assessment. This is up to the court at initial hearing.

Commissioner Carter commented he likes what Porter County is doing and likes the fact that the assessment question gets to the major considerations.

Ralph Watson inquired on the schedule for conducting assessments and whether individuals can post bond prior to assessment. Ms. McDonald reported that misdemeanors and F6 offenders can post bond before assessment, but higher offenses must see the judge prior to release.

Next, Ken Elwood, Chief Public Defender, discussed his concerns when the program first started regarding impact on budget and caseloads. He described the public defender is only for the initial hearing and the court will later determine if the individual needs a public defender appointed for the case. He reported concerns still with the amount of information communicated since the treatment world needs more information compared to the criminal justice need and use of information related to substance use. He reiterated the information on jail population and the numbers show the process is working. He also reported all courts will be part of the pretrial process beginning January 1, 2020.

Prosecutor Gary Germann spoke next emphasizing the obligation for public safety and the need to help non-violent offenders. He explained that this balance is complex and one key point is the pretrial release program allows for reconstruction work and with opportunities for release and the ability to insist on pretrial conditions. He reported seeing changes in graduates from problem solving court programs and emphasized the need to look at each case individually to make decisions. He also reported that community corrections and problem-solving courts provide a variety of sentencing options and services to individuals in the community, which saves money and resources.

Bernice Corley inquired on the need for conditions for low risk individuals and if moderate or high, what type of release is typical. He reported many can be released and some with low level drug issues need conditions since they are a risk to themselves or others in the community.

The meeting then continued with public testimony.

Steve Luce, Executive Director, Indiana Sheriffs Association, emphasized the need to look at options for solutions since each county is different. He also reminded the Task Force of his recent trip to Pennsylvania to look at how they built community partnership to assist those being released from jail.

Mark Van Allen, Principal with DLR Group, provided an overview of the firm and reported on recent work in Vanderburgh and Gibson Counties. He offered to be involved in conversations regarding facility solutions since facilities need to address services and provide spaces for humane treatment of individuals. He reported on work within Ohio in Cuyahoga and Lucas Counties on facilities.

Justice David reminded the audience of the information on-line for posting comments and then he requested Ralph Watson, Indiana Association of Community Corrections Act Counties, make closing remarks.

Mr. Watson thanked Porter County and Sheriff Reynolds for their hospitality and emphasized that counties need to work to identify challenges but also possible solutions at the local level. As a local community corrections director, he noted challenges vary by jurisdiction and solutions need to vary to meet those needs. He emphasized the need to collaborate with the community and stakeholders since jail overcrowding cannot be fixed by the sheriff alone, but all stakeholders need to work together, and the work of this Task Force will help identify a path for jurisdictions going forward.

Justice David closed the meeting and announced the next meeting would be on November 6, 2019. He thanked Indiana Office of Court Services staff, Jenny Kidwell, Jenny Bauer, Mary Kay Hudson, and Michelle Goodman as well as Sheriff Reynolds, Jail Commander Steve Lawrence and Ivy Tech Community College.

The meeting adjourned at 4:00 p.m.

Jail Overcrowding Task Force

Minutes

November 6, 2019

12:00 pm – 3:00 pm EST

Anderson University – York Performance Hall, Anderson, IN

Members Present:

Hon. Steven David, Indiana Supreme Court, Designee of Chief Justice Loretta H. Rush, Chair
Sen. Mike Gaskill, Indiana Senate, Co-vice Chair
Rep. Greg Steuerwald, Indiana House of Representatives, Co-vice Chair
Sen. J.D. Ford, Indiana Senate
Douglas Huntsinger, Office of the Governor
Robert Carter, Commissioner, Indiana Department of Correction
David Powell, Former Executive Director, Indiana Prosecuting Attorneys Council
Sheriff Brett Clark, Hendricks County
Ralph Watson, Hamilton County Community Corrections

Members Not Present:

Rep. Ragen Hatcher, Indiana House of Representatives
Bernice Corley, Executive Director, Indiana Public Defender Council
Tracy A. Brown, Tippecanoe County Commissioner
Superintendent Doug Carter, Indiana State Police

Others Present:

Hon. Christopher Goff, Indiana Supreme Court
Mark Carnell, Indiana Public Defender Council
Mary Kay Hudson, Executive Director, Indiana Office of Court Services
Michelle Goodman, Staff Attorney, Indiana Office of Court Services

Meeting discussion:

Justice David welcomed those attending, introduced the task force members, and provided an overview of the task force objectives. He also thanked Anderson University for providing meeting space and for their hospitality.

Sen. Mike Gaskill next provided opening remarks and stressed the dedication of the task force members noting the amount of input received and the thoughtful consideration among the members to develop good recommendations for these issues.

Rep. Greg Steuerwald was asked to provide an overview of HEA 1006, which became effective five years ago and created the Justice Reinvestment Advisory Council. He outlined the history of the process to get the proposal into law and emphasized the stakeholders involved in the study committee.

Next, Justice David acknowledged Judge David Happe and Prosecutor Rodney Cummins from Madison County. Justice David provided an overview of the meeting agenda and reminded attendees of the audience's ability to submit public comment on-line no later than Friday, November 8 at 3 p.m., which will be included with all information under consideration by the Task Force. He also announced the next meeting would be held on November 25 at 1 p.m. in Indianapolis for executive session and time for the public meeting will be announced soon. Finally, he reminded everyone the Task Force's final report is due on December 1 to the Governor, Legislative Council, and the Chief Justice.

The Task Force reviewed the minutes from the October 30, 2019, meeting. Ralph Watson made the motion to approve the minutes and Rep. Gaskill seconded the motion, which was unanimously approved.

The meeting continued with the stakeholder presentations requested by the Task Force. The first presentation was made by the Division of Mental Health and Addiction (DMHA). Doug Huntsinger provided introductory remarks emphasizing the importance of addressing mental health and addiction issues since they contribute to jail overcrowding. He noted the Governor has made addressing mental health and addiction issues a top priority. Next, Rebecca Buhner, Deputy Director, provided information and an overview of current DMHA initiatives. National statistics were provided on the opioid disorder crisis and referenced the number of jail inmates with opioid or other substance use disorders. More specifically, Ms. Buhner mentioned approximately one-third of those who died of an accidental overdose in Marion County were released from the county jail in the year prior to death and many died within one week of release from incarceration. As of October 25, 2019, Indiana has experienced close to 700 opioid deaths this year with the largest category involving males age 25 to 44. She also reported on arrest data in 2018 and 2019, with drug related arrests in 2018 at 38% and 35% so far in 2019. She described the types of drugs that are contributing to these arrests and while opioids are still on the list, the biggest contributor to arrests is now methamphetamines.

Ms. Buhner described the goal of DMHA to bring evidence-based treatment services into the jails focusing on the practices that can provide services for all forms of substance abuses, to help address treatment needs in the more rural communities. She provided results from a survey conducted in partnership with Pew-MacArthur focused on the availability of medication assisted treatments (MAT) for opioids, referring to the use of medications in combination with counseling and therapy, currently available within Indiana's jails. With 59 of the 92 sheriffs responding to the survey, 39 reported some form of MAT is available, all paired with therapy and counseling. The eligibility for MAT and timing when the services were offered varied widely among the programs. The next set of survey questions is not generalizable since only 13% of respondents answered and it is difficult to determine the consistency in which these practices are occurring within the jail. A high percentage of respondents are willing to learn more at MAT, but identified barriers for MAT within the jail, including diverting medications by inmates and funding for services. While Recovery Works has helped with access to services and treatment in the jail and to continue services upon release, she reported much of the treatment costs continue to fall to the counties, so state funding would be helpful. She also highlighted the lack of standard screening practices among the jails. In addition, more rural areas reported support for jail treatment but noted concerns about access to services within the community as a barrier to starting treatment with the availability of community follow through. Next, she reported on the survey recommendations, the first of which called for expanding Recovery Works and focusing on jail services. DMHA has reorganized the funding priorities with a focus on reentry services and removed the 90 days pre-release requirement making \$1500 of services available within the jail beginning on first day of confinement.

The next recommendation focused on stakeholder education. DMHA is partnering with several stakeholders, including the Indiana Sheriffs' Association to train on MAT programs and evidence-based practices. The third recommendation focused on maximizing MAT treatment within the jails to include availability of all three types of approved medications, but barriers exist for areas that do not currently have direct access to an opioid treatment program since they are the only eligible to offer methadone treatment. Next, she discussed the recommendation to implement best practices in MAT services to assist with consistent screening, assessment and options for service delivery. Lastly, the focus was on improving care coordination between jails, Indiana Department of Correction (IDOC), and community providers for continuity of treatment. Ms. Buhner then provided an overview of collaborative efforts, including the National Governor's Association program focusing on goals expanding access to evidence-based practice treatment and MAT delivery, developing a technical assistance center to help guide new sheriffs and jail commanders to implement or continue these programs.

An additional collaborative effort is underway between DMHA and IDOC to develop a unified approach to addressing addiction needs regardless of the setting or funding source. This will involve developing protocols, tools, and programs with the same understanding of the language so all partners can understand key information and share that information as services continue as individuals move through the system. She also highlighted Rhode Island's implementation of treatment services and their outcomes. Rhode Island has reported better morale among correctional officers with a better understanding of substance use disorder as a disease and incidents are reduced as inmates receive and engage in treatment services. DMHA looked at this program to focus on stakeholder education. The next program highlighted was Massachusetts and their use of Vivitrol 90 days pre-release is more effective than only 30 days pre-release. Ms. Buhner emphasized DMHA's partnership with Indiana Sheriffs' Association and the Governor's Office on evidence-based practices for all substances noting this partnership is made possible through the Governor's Next Level Recovery agenda, which provides funding for services for all addictions using the State Opioid Response Grants for opioid treatment. Additional funding from the Governor's Office to address other types of substance use disorders and expand jail treatment services is also available. She also reported work has begun on Project ECHO, which provides web-based meetings with basic training information to assist with case staffing. The first training focus will be on MAT for jails in January and other trainings and assistance will be available in the future. Finally, Ms. Buhner provided an update on Recovery Works. In addition to reorganizing the funding to prioritize funds for reentry treatment, community-based services, and recovery residences. Recovery Works has enrolled approximately 48,000 individuals with just over 11,000 active in the program today. She also reviewed the top five services provided, recovery residences, skills training, substance use groups, skills training group, and intensive outpatient and showed the top five counties accessing services.

Dave Powell inquired about definition of drug related arrest and she reported the data comes from the Management Performance Hub, which does not include drug related arrests involving alcohol and marijuana. He also inquired about the trend for increased methamphetamine use and the availability of MAT for that substance. She clarified methamphetamine it is more of an issue in rural communities. She emphasized there are still evidence-based practices that are effective for this population. He also asked about funding for the MAT provided by the jails and she indicated generally the counties are paying for those services but there are three counties that have funding through the State Opioid Response Grants to offer methadone. He asked about the availability of mental health and substance abuse treatment providers and she agreed there was a shortage of providers. He asked about recent change to require providers to be Medicaid qualified in Recovery Works. She explained this change was made, effective July 1, since the population being served by Recovery Works is the same as Medicaid

and Recovery Works is gap funding, not a long-term resource. Only one provider chose to withdraw, and this program was not providing Recovery Works services at the time. There were ten or eleven providers that were not fully credentialed but DMHA has agreements with them to continue providing services as they finish the credentialing process. He also asked how we can improve communications regarding program changes. She reported they conducted trainings with the criminal justice partners in September of this year and are working to enhance partnerships within the criminal justice system as well. He also confirmed that Recovery Works is available to felons, or individuals with a prior felony conviction and a current offense noting if some offense levels are reduced then they would not be eligible for Recovery Works. He also asked about outcomes for Recovery Works. She reported the current study focuses on recidivism not on relapse and the results should be out in the next few months.

Jay Chaudhary, Director of DMHA, highlighted the future initiatives of the Division. First, working on issues when individuals that are found incompetent to stand trial and noted the increasing number of those individuals committed without corresponding resources. DMHA is examining the issues of this population and looking at ways to address getting these individuals to the state hospitals more efficiently. The second area is working on the need for a paradigm shift in treatment world to be less reluctant to work with criminal justice involved individuals and one strategy is the implementation of the Sequential Intercept Model as a guide to identify gaps and work to strengthen those areas.

Justice David asked what are a couple top things that new sheriffs can reach out to DMHA for assistance with and whether DMHA is planning to launch teams to conduct training on what is available in the counties. Mr. Chaudhary confirmed that DMHA is planning to launch those teams but would like sheriffs to identify the gaps and barriers to bringing services to where people are located and to shift from referral focus to making the processes a part of the system.

Next, Steve Luce, Executive Director, Indiana Sheriffs' Association addressed the Task Force. Mr. Luce thanked the Task Force for their time and the opportunity to present today. He stated it is important to work to create a strategic plan over the next several years to address jail overcrowding issues. He highlighted the collaborative work among stakeholders since the adoption of HEA 1006. He noted that the opioid crisis was not expected at the time HEA 1006 was adopted but emphasized the need to have the proper strategies in place going forward. He discussed the need for the right infrastructure and county-level collaboration, including all stakeholders, to be successful going forward citing Porter County as an example. Proposed solutions may include peer review of issues involving multiple stakeholders to ascertain the trends that contribute to jail overcrowding. He also discussed the need for better jail data to identify the difference between sentenced and unsentenced inmates, length of stay, etc. along with the ability to share that information among stakeholders to develop sound policies and practices through collaboration. He referenced the work from the State of Washington on a statewide system to provide a central repository that communicates with all jails and other criminal justice agencies in real time. The system provides reports and summary data for victim notifications and aids in population management strategies. Mr. Luce also discussed the mental health issues for those with severe mental illness housed within jails emphasizing the jails are not equipped to handle this population and noted contributing factors such as lack of access to community-based treatment, lack of supports within the community, and need for additional education and understanding of mental illness. He noted the time inmates wait for forensic evaluations and stated addressing this population will benefit jails by decreasing time waiting for service and medical costs and need to address security risks associated with housing inmates with mental health issues. He indicated he was looking forward to the solutions for overcrowding and improving outcomes with the use of real time data.

Rep. Steuerwald thanked the Sherrifs' Association for being a partner on HEA-1006. He inquired on the example of the Washington State data system enacted by statute and whether the solution the Association is now working on would be similar or require legislation. Mr. Luce indicated that we need support for the RFQ process to be sure the data we get will be beneficial and need support for the ability to get real time data to identify trends to allow the shifting of resources to address the problems. Rep. Steuerwald indicated willingness to help on the RFQ process or anything else to expedite the process.

Sheriff Brett Clark, referencing the data problems, inquired about a standard screening for mental illness and substance use disorders, which can be helpful information to share across the system, between county jails and IDOC, and may be an opportunity to work together to implement that level of data sharing with the criminal justice agencies. Ms. Buhner indicated DMHA is looking at screening tools and how to share that information. Mr. Luce said one of the most important tasks is to address the gaps with intervention and prevention to improve outcomes.

David Powell, on behalf of the Indiana Prosecuting Attorneys Council (IPAC) presented next. He described his involvement on behalf of prosecutors on the study committee for HEA 1006, which has accomplished much of what it was set out to do, but noted his continuing concern is the lack of local resources. Mr. Powell provided an overview of criminal filings from the prosecutors' case management system covering 91 counties, including the top ten felonies and top ten misdemeanor offenses while noting about one-third turnover rate for elected prosecutors each election cycle. He stated HEA 1006 increased the number of Level 6 offenses and limited the number of those offenses that can go to the Indiana Department of Correction, which impacts county jails that were already crowded. He indicated about 63% of prosecutors' work is on misdemeanor and lower level felony cases. He noted that since 2017 the top Level 6 offense was possession of methamphetamine, noting the challenges to treat those addicted to this substance. He also showed the increasing number of cases involving possession of a syringe. He stated the cases involving opioids were falling and a lot of work has been done in this area by the Governor's Office, the General Assembly, and the courts.

In discussing driving while suspended cases, he indicated a workgroup, involving members of the General Assembly, Public Defender Council, and the Bureau of Motor Vehicles, is identifying ways to address these cases differently. He emphasized the need to become better at helping and treating these individuals noting four of the top ten felonies and five of the top ten misdemeanors are substance use related, including alcohol related offenses. Reminding the Task Force that Recovery Works is not available to misdemeanor offenders, he stated many people committing property and neglect crimes involve substance use, and we should not wait until someone is a felon before providing Recovery Works services. He also emphasized the misdemeanor population is a local issue and if those numbers keep increasing it will impact jails and local resources. He also referenced the need for a full partnership with public health to address the increased substance use and according to SAMSHA many individuals who are addicted do not believe they have a substance use problem or will not seek help, so we need to find ways to reduce the use and demand for substances. He communicated, based on media reports, six counties have or will build jails, seven counties have proposed projects, which will result in 6400 additional beds and \$1 billion will be spent. He also described the work IPAC and the Evidence Based Decision Making Risk Reduction Workgroup is doing on establishing guidelines for felony diversion programs, noting the need for screening tools for diversion and treatment within rural communities. Mr. Powell also referenced demographic trends and outlining the resources needed to be moved to areas with the greatest growth. He also supported the legislative proposal to merge the Justice Reinvestment Advisory Council and the Evidence Based Decision Making Policy Team, the need for

statewide jail data, the need to address the demand for substances and provide capacity in all communities for treatment.

Rep. Steuerwald thanked IPAC for their work on HEA 1006 and inquired if he believed that forced treatment was effective. Mr. Powell noted that coercive treatment can be effective, like drug courts, can be effective since it is not just threat of jail, but threat of job loss and family that can motivate individuals. He also indicated the need within the criminal justice system to provide lower sentences or expungement if successful. He also agrees Recovery Works should be available for misdemeanor offenders.

Indiana Public Defender Council's (IPDC) presentation was provided by Mark Carnell. He described the work of IPDC as well as local public defender services, some with full time offices, some with part time offices, and some are appointed on individual cases. He suggested that HEA 1006 is not the sole cause of overcrowding reference information from the Sagamore Institute that this is not a "new" problem, highlighting several counties are being sued for overcrowded conditions while two counties are under monitoring agreements. In referencing 2017 data from an interim study committee showing 10% of sentenced Level 6 offenders were serving time in the jails and if all Level 6 sentenced offenders were at IDOC, 31 jails would still be over capacity. He recognized Porter County as a good example for looking at addressing factors, such as pretrial detention, mental health, and cite and release practices. He suggested a collaborative approach and proposed several solutions, including funding for the Public Defender Commission to allow for and fund reimbursement for misdemeanor cases, have public defender appointed prior to the initial hearing, statewide bail schedule in place of county bail schedules, encourage release of low level offenders, reduce the conditions associated with release, provide more treatment centers that are separate from the criminal justice system; diversion into treatment for non-violent offenders, and restorative justice model for higher level non-violent offenses. He indicated the need for more data as a part of reinvestment strategies and noted real time data would allow for more ability to respond to trends. He provided an example from Jackson County on reasons for incarceration, and while respecting judicial discretion, judges should consider alternatives to jail and treatment options.

Next, Ward Byers, representing the Indiana Association of Community Corrections Act Counties (IACCAC), and Adam McQueen, representing the Probation Officers Professional Association of Indiana (POPAI) provided their presentation regarding community supervision. First, they provided an overview of the supervision available within probation and community corrections agencies. They emphasized that community supervision works to support behavior change and must focus on incremental basis since individuals are with them for a set timeframe. In working to change behavior, they use risk assessment results and identify evidence-based programs for addressing individual's needs. They noted while they cannot completely turn a person around in a short time period, they can work to reduce risk prior to release from supervision. They noted the importance of treatment in jails and IDOC, but stressed that this was only the beginning of the process for individuals. Mr. Byers referred to Marshall County's jail treatment program funded by community correction grants.

They recognized that community supervision can and does at times impact the jail population through recidivism and violations. In describing addressing violations, they noted that jail can be used as a part of the graduated sanctions program and then return the person to community supervision after a short-term stay, often after having administrative hearings and a minimum of three technical violations prior to a return to the jail. In discussing recidivism, they mentioned community supervision also contributing to recidivism rate for IDOC when violation responses include return for new offenses. They noted it is

vital to have MAT available within the jail or the community since their risk is greatest upon release. Mr. Byers referenced Marshall County's Community Correction program providing transportation for offenders to a program since there is not a program within the county. They went on to emphasize the need for programs, and good release and discharge plans to transition individuals to successful completion as well as the need to share information from jail and IDOC to community supervision on treatment to begin services in the community without delay.

They also discussed evidence-based practices and continuing to understand what works in assisting offenders to intervene and treat their needs. Effective delivery of these practices can be challenging due to time, dealing with a challenging population, and high caseloads impacting the ability to provide meaningful supervision. Mr. McQueen provided data on the number of misdemeanor and felony probation cases and since 2015 probation has experienced a 29% increase in felon supervision cases. Mr. Byers also shared the snapshot data showing the increase in community correction supervision, which correlates with HEA 1006, is outpacing available resources. They shared information from various counties regarding caseload sizes and referenced national guidelines for caseload and reviewed a study on caseload standards which demonstrated that smaller caseloads allow more time for meaningful interactions with each client and found the supervision outcomes were more positive (i.e. fewer technical violations, fewer positive drug screens). The other key finding showed with a caseload of 54 medium to high risk offenders there was a 30% reduction in recidivism. Next, they discussed graduated incentives and sanctions programs noting the agencies are addressing sanctions administratively without appearing before the court or filing a violation. They referenced a recent survey conducted showing 72% of agencies responding reported they use graduated sanctions prior to court intervention with good results. They emphasized that every interaction is an opportunity to reduce harm, yet agencies need resources to address high caseloads, and expansion of incentives and sanctions programs. One suggestion would be to create a problem-solving court track for repeat violators. They emphasized community supervision works when implemented well noting community supervision agencies are partners in these efforts and continuing to strive to be change agents to reduce risk with appropriate interventions.

Justice David recommended they post comments and suggestions to the web page and explain more on various mechanisms to resolve violations to keep individuals out of court. He asked what counties they would identify as examples with dosage probation, focusing on high risk versus low risk, etc., who are the leaders in the field. They referred to Grant, Monroe, and Wabash Counties.

Mr. Powell asked about caseloads and inquired regarding the breakdown among risk categories. They responded that a bulk of supervisions are low risk. They discussed that low risk should be supervised at a low level or not supervised at all to prevent increasing risk. Mr. Powell also inquired on the Supervised Release System for probation and community corrections. They discussed the system is part of INCite and is an improvement over older systems and the reporting features reduce manual data tracking and reporting and the system interacts with Odyssey allowing them to work out of one system.

Commissioner Robert Carter, IDOC, inquired about the percentage of cases going to probation versus parole. While the data wasn't available for the state, Mr. McQueen indicated a vast majority come from jail to probation or have a fully suspended sentence to probation.

Sheriff Clark discussed the idea of a problem-solving court track for violators wanted to know if it provides an alternative to incarceration since many counties are struggling with supervision violators staying in the jails. Mr. Byers gave an example from his county where probation violators are placed in

community corrections as a sanction as outlined in the probation terms and discussed the features used in this process allowing them to work to step them back down to probation.

Rep. Steuerwald commented with HEA 1006 work he learned many parties did not communicate well and recommended they talk with Sheriffs' Association on the RFQ to improve communication between jail to community supervision. Mr. Byers emphasized the need to know what already completed and IDOC does this with Community Transition Program reports to get individuals to the next level of services. He also discussed his county's receipt of the Justice Partners Addictions Grant from Indiana Office of Court Services to develop plans with the jail to conduct Criminal Rule 26 work, implement recovery coaches, and release planning.

The meeting then continued with public testimony.

Judge Happe, Madison County, spoke on behalf of unified court judges noting that jail overcrowding has been a problem for decades, but a couple factors has made it a crisis (1) the increase in drug addiction issues and (2) the increase in Level 6 cases along with the limit on those eligible to go to IDOC. He reported that many are placed in community corrections even though they aren't expected to do well, and their county has experienced a 354% increase in failures to return. He also reported on the good collaboration and work of their local jail overcrowding task force along with technical assistance from the Supreme Court. He also reported on problem-solving courts, their Vivitrol program, and revising the bail system in the county.

Next, Sheriff David Wedding, Vanderburgh County, read a letter from the Judge Wayne Trockman on behalf of the local courts outlining their local partnership with sheriff to reduce the jail population including revisions to the work release program to include therapeutic treatment and services, which is now operating at capacity and offering services to Level 6 inmates who would otherwise be incarcerated within the jail. The letter also described a grant recently provided by IDOC to provide electronic home detention supervision and the impact of plea agreements on the jail populations as well as the increase in gun violence. He also outlined local providers, stated that there is a lack of safe housing for addicts returning to the community, the challenges with employment, mental illness, or struggle due to history of abuse or neglect. He reported on the need to address state reimbursement as current funding is not adequate, need to share information about violators, jails now serving as rehabilitation facilities and not properly equipped, and the impact of plea agreements.

Justice David asked Justice Goff for some comments and remarks. He summarized the work of the Task Force as it has traveled the state and agreed with the commonly shared observation that this problem is complicated. He communicated that Indiana is better prepared today than any time before to address these issues while balancing individual rights and protecting public safety and called upon all stakeholders to know their interests are important and we need everyone's best effort to solve this problem.

Next, Justice David called upon Senator J.D. Ford for closing remarks. He thanked the Task Force, the presenters, and the public for their feedback. He reported on his meetings with sheriffs, staff, and inmates as well as visits to jails within his district. He suggested areas to review include treatment in jails, access to treatment upon release, lack of funding, standardized screening, expanding Recovery Works and MAT, and better data collection. He hopes the recommendations will focus on more treatment instead of warehousing individuals and work on issues that contribute to this issue such as access to services and providing livable wages to overcome poverty.

Justice David closed the meeting and announced the next meeting of the Task Force is scheduled for November 25 at 1 p.m. at the State House in the Indiana Supreme Court Conference Room. He thanked the members of the Task Force for their work and service.

The meeting adjourned at 2:54 p.m.

Jail Overcrowding Task Force

Minutes

November 25, 2019

2:15 pm EST

Statehouse Room 319, Indianapolis, IN

Members Present:

Hon. Steven David, Indiana Supreme Court, Designee of Chief Justice Loretta H. Rush, Chair
Sen. Mike Gaskill, Indiana Senate, Co-vice Chair
Rep. Greg Steuerwald, Indiana House of Representatives, Co-vice Chair
Sen. J.D. Ford, Indiana Senate
Douglas Huntsinger, Office of the Governor
Robert Carter, Commissioner, Indiana Department of Correction
David Powell, Former Executive Director, Indiana Prosecuting Attorneys Council
Bernice Corley, Executive Director, Indiana Public Defender Council
Sheriff Brett Clark, Hendricks County
Ralph Watson, Hamilton County Community Corrections
Tracy A. Brown, Tippecanoe County Commissioner

Members Not Present:

Rep. Ragen Hatcher, Indiana House of Representatives
Superintendent Doug Carter, Indiana State Police

Others Present:

Rep. Randall Frye, Indiana House of Representatives
Hon. Christopher Goff, Indiana Supreme Court
Mary Kay Hudson, Executive Director, Indiana Office of Court Services
Michelle Goodman, Staff Attorney, Indiana Office of Court Services

Meeting discussion:

Justice David welcomed everyone in attendance and convened the Task Force meeting. The Task Force reviewed the minutes from the November 6, 2019, meeting. The minutes were unanimously approved.

The Task Force then reviewed the proposed recommendations for the final report due on December 1, 2019. First, the Task Force reviewed the Initial Recommendations section. There was a motion by Rep. Steuerwald to adopt the Initial Recommendation 1, which was seconded by Tracy Brown. The motion was unanimously approved. On Initial Recommendation 2, Ralph Watson motioned for its adoption and Sheriff Clark seconded the motion. The motion was unanimously approved.

Next, the Task Force addressed the Short-term and Long-term Recommendations, which were organized by categories. First, the Data and Evaluation category was considered. Sheriff Clark moved for adoption of short-term recommendation 1, which was seconded by Doug Huntsinger. The motion was unanimously approved. On

long-term recommendation 1, Sen. Gaskill motioned for its adoption seconded by Sen. Ford. The motion was unanimously approved.

The next category was Behavioral Health treatment, programs, and services. Bernice Corley moved to adopt short-term recommendation 1, which was seconded by Commissioner Carter. The motion was unanimously approved. Ralph Watson moved for the adoption of short-term recommendation 2 and was seconded by Sen. Gaskill. The motion was unanimously approved. Doug Huntsinger motioned for adoption of long-term recommendation 1, which was seconded by Sheriff Clark. The motion was unanimously approved. Long-term recommendation 2 was motioned for approval by Rep. Steuerwald and seconded by Ralph Watson. The motion was unanimously approved. On long-term recommendation 3, Tracy Brown moved for its adoption and Bernice Corley seconded the motion. The motion was unanimously approved.

Recommendations for Case Processing were considered next. Sen. Ford moved the adoption of short-term recommendation 1, which was seconded by Bernice Corley. The motion was unanimously approved. Short-term recommendation 2 was moved for adoption by Sen. Gaskill and seconded by David Powell. The motion was unanimously approved. Bernice Corley moved the adoption of long-term recommendation 1, which was seconded by Sen. Ford. The motion was unanimously approved. On long-term recommendation 2, Doug Huntsinger moved for its approval and Sheriff Clark seconded the motion. The motion was unanimously approved.

The Task Force then reviewed the Community Supervision category. Sen. Gaskill moved the adoption of short-term recommendation 1 and Commissioner Carter seconded the motion. The motion was unanimously approved. Short-term recommendation 2 was moved for approval by Ralph Watson and seconded by Commissioner Carter. The motion was unanimously approved. Dave Powell moved to approve long-term recommendation 1, which was seconded by Doug Huntsinger. The motion was unanimously approved.

The final category for review was Resources. Sen. Ford moved for the adoption of short-term recommendation 1, which was seconded by Ralph Watson. The motion was unanimously approved. Short-term recommendation 2, was also moved for approval by Sen. Ford and Dave Powell seconded the motion. The motion was unanimously approved. Ralph Watson moved for the adoption of short-term recommendation 3 and Rep. Steuerwald seconded the motion. The motion was unanimously approved. The motion to adopt short-term recommendation 4 was offered by Sheriff Clark and seconded by Tracy Brown. The motion was unanimously approved with Commissioner Carter abstaining. David Powell moved to approve long-term recommendation 1, and Bernice Corley seconded the motion. The motion was unanimously approved. Long-term recommendation 2 was moved for adoption by Commissioner Carter and seconded by Rep. Steuerwald. The motion was unanimously approved.

The approved recommendations will be reduced to final form based on the discussion today. The final report will be made publicly available following distribution to the Governor, Legislative Council, and the Chief Justice.

Justice David thanked the Task Force for their work and opened the floor for closing comments. Rep. Steuerwald thanked Rep. Frye for creating this Task Force and thanked everyone for their time and effort. Rep. Frye commended the Task Force on their work and compiling this report. He indicated that if we can work collectively to get these recommendations completed it will be wonderful for the whole state. Sheriff Clark, along with other members, thanked the Task Force staff for all their time and support during this process.

After closing remarks, the meeting adjourned.