

# Justice Reinvestment Advisory Council

## Meeting Minutes

### December 11, 2020

The Justice Reinvestment Advisory Council met by video conference on December 11, 2020. Justice Christopher Goff chaired the meeting. The Advisory Council met 1:30 p.m.-3:30 p.m.

**1. Members present.** The following members of the Council were present:

- Bernice Corley, executive director of the Indiana Public Defender Council
- Chris Naylor, executive director of the Indiana Prosecuting Attorneys Council
- Stephen Luce, executive director of the Indiana Sheriffs' Association
- Jay Chaudhary, director of the Department of Mental Health and Addiction
- Christine Blessinger, proxy for the commissioner of the Indiana Department of Correction
- Mary Kay Hudson, designee for the chief administrative officer of the Office of Judicial Administration
- Devon McDonald, executive director of the Indiana Criminal Justice Institute
- Ralph Watson, designee for the president of the Indiana Association of Community Corrections Act Counties
- Adam McQueen, president of the Probation Officers Professional Association of Indiana
- Kirsten Haney, designee for director of the State Budget Director
- Judge Mark Spitzer, designee for the president of the Indiana Judges Association
- Mark Rutherford, chair of the Indiana Public Defender Commission
- Sen. Karen Tallian, ranking minority member of the Senate Corrections and Criminal Law Committee
- Doug Huntsinger, designee for the governor

**2. Guests.** Rep. Randy Frye and Matthew Loprete from the Indiana House of Representatives; Michelle Goodman from the Office of Court Services; and Amy Karozos from the Public Defender Council attended the meeting as guests.

**3. Staff assistance.** April Dubree and Angie Hensley-Langrel provided staff assistance to the Council.

**4. Approval of minutes.** Adam McQueen made a motion to approve the minutes of the November 16, 2020 meeting and Sen. Karen Tallian seconded the motion. The Council approved the motion unanimously.

**5. Report from JRAC Quick Response Group.**

**a) Case studies on local jail populations.** Mary Kay Hudson provided a summary of the final written report which was provided to council members in the meeting materials. The report discusses findings in two main categories: (1) practices resulting from pandemic conditions that are not likely to continue or have already been discontinued, and (2) evidence-based practices adopted during the pandemic which will continue or were in place pre-pandemic. Ms. Hudson advised the report gives the Council a better understanding of the jail populations across the state as it relates to the pandemic and indicated not any one factor or condition is solely responsible for the trend in increases or decreases in local jail populations. With many local jail populations returning to pre-pandemic levels or higher in mid-July, practice changes due to the pandemic are not likely sustainable. Judge Spitzer highlighted that significant changes in jail numbers may be an opportunity to look at local pretrial practices and counties that did not see significant changes in jail numbers may be a result of prior implementation of evidence-based pretrial practices pre-pandemic and collaboration. Mary Kay Hudson made a motion for the Council to adopt the written report and Judge Mark Spitzer seconded the motion. The Council approved the motion unanimously. Next steps will include reviewing the recommendations from the Jail Overcrowding Task Force Report and the JRAC Pretrial and Bail Reform Report to reinforce identified best practices.

**b) Racial equity workgroup.** Bernice Corley and Steve Luce reported they have increased the membership of this workgroup to include additional members outside of the Council. The first meeting will be in January 2021. The workgroup's first task is to conduct an inventory to determine what data is collected by agencies, including reports generated from collected data.

**c) Legislative proposals.**

- i. Local JRAC Policy Teams. Rep. Frye submitted revisions to the Legislative Services Agency for the draft bill to create local JRAC policy teams. Revised language includes the addition of the State Council reviewing and evaluating the criminal justice system for disproportionality, the opportunity for multiple counties to form a regional council, and for JRAC to conduct a review of community corrections code provisions in the Indiana code and make

recommendations. Judge Spitzer recommended revised language to reflect the judicial appointment made by the judges in each county or region. Some members expressed concerns about the disproportionality language and if it applies to sentencing or is a mechanism to collect data. A small group which will include Mary Kay Hudson, Bernice Corley, Judge Spitzer, Devon McDonald, Chris Naylor and Michelle Goodman will meet to discuss this area and potential amendments to the bill. Rep. Frye advised all revisions to the bill will have to be amendments from this point forward due to LSA deadlines and requested JRAC's support of the bill's concept. Justice Goff asked the members for consent to support the bill in concept and continue to work with Rep. Frye and Sen. Tallian on amendments. The Council consented unanimously, with abstentions by ICJI, SBA, and DMHA.

- ii. Proposed amendments to IC 35-33-8-8.3. Sen Tallian advised she amended portions of the bill and met with Bernice Corley, Chris Naylor, and Judge Spitzer independently, but has been unable to solidify the language. Judge Spitzer, as the chair of the Pretrial Conference Committee, added this to the upcoming meeting on December 14, 2020. He will ask the multidisciplinary committee for recommendations. The Council agreed the Pretrial Conference Committee would be the proper forum to review the bill. Due to the next JRAC meeting occurring after LSA filing deadlines, Sen. Tallian will file the bill as is and continue to work with the Council on language amendments regarding releasing non-violent misdemeanants on recognizance. This must be completed before mid-February for the bill to move forward. This agenda item will be discussed at the January meeting.

**6. Indiana mental health system mapping.** Mary Kay Hudson reported the completion of all stakeholder interviews for the mental health system mapping project and advised the report is anticipated to be published, with the assistance of the National Center for State Courts, in January 2021. Ms. Hudson reported Sen. Sandlin has submitted updates to LSA for IC 35-36-3-1, which have been vetted by the Deadwood Group, regarding competency to stand trial. The bill would reduce the number of evaluators appointed from two or three to one, require a psychiatrist or psychologists while excluding physicians as evaluators, and require evaluations to be completed using a template approved by DMHA. If a party disagrees with the court's findings with the single evaluation, they can petition for a second evaluation. These changes would reduce the time and cost associated with cases, allow more timely access to restoration services, or allow

the case to proceed. A study committee will likely be created to examine these areas during the upcoming session.

Jay Chaudhary highlighted additional language to this statute allows DMHA to contract for partial competency restoration services rather than the current language which states they contract for all or no services. Bernice Corley expressed concerns about the draft provisions removed regarding dismissals if the accused is found incompetent as well as reducing to one evaluator if vague language of "good cause" is included. Chris Naylor shared that prosecutors welcome this conversation with full support for a study committee and do not believe work should be delayed until after the summer when the study committee would conclude. Mr. Naylor also indicated there are two areas that stand out to prosecutors (1) there is a strong preference for psychiatrist to conduct the evaluations, and (2) conducting two evaluations as they share the similar concerns as the public defenders. Mr. Naylor recommended a short-term solution is to have language stay the same unless the parties agree to one evaluator. Ms. Hudson advised the intent to reduce the number of evaluations is to move cases along or get them into restoration services sooner and welcomes alternative language to accomplish this.

Justice Goff provided background information on the importance of this work and shared that the bill has been introduced by Senator Sandlin with the idea to convene a small group before the end of January to propose agreed upon language as there is not consensus on the current proposed language. The small group will include Bernice Corley, Chris Naylor, Mary Kay Hudson, Jay Chaudhary, Doug Huntsinger and other members as interested. Judge Mark Spitzer made a motion to request a summer study committee to look into this subject further as a way to show general support to improve court and community response to mental illness and Bernice Corley seconded the motion. The Council approved the motion unanimously.

**7. FY 22-23 budget forecast.** The next revenue forecast is scheduled for December 16, 2020 at 9:00 a.m. The forecast will provide the estimated revenue projection for the next biennium and finalize the budget for the upcoming session. There will be budget hearings on Monday and Tuesday of that week for larger cabinet agencies.

**8. Member reports.**

**a) Indiana Public Defender Council – No report.**

- b) Indiana Prosecuting Attorney Council** – No report.
- c) Division of Mental Health and Addiction** – No report.
- d) Indiana Sheriffs' Association** – Steve Luce reported ISA is working with DOC and the State Health Department on vaccine distribution. In addition, he thanked Jay Chaudhary and DMHA for their assistance.
- e) Indiana Department of Correction** – Chris Blessinger reported that about 75% of executed Community Corrections contracts have been returned to counties and IDOC is working collaboratively with the jails and ISA regarding vaccines.
- f) Office of Judicial Administration** – Mary Kay Hudson reported the Office of Court Technology received a grant from the Indiana Criminal Justice Institute to improve collection of criminal histories. One component of the grant will include building a custom jail management system to meet the needs of jail facilities which will be connected to Odyssey linking court and jail information. Use of the new system will be voluntary and provided at no cost to local communities, similar to the Odyssey case management system. The grant allows for pilots in three jails of differing size. Ms. Hudson reported the Supervised Release System (SRS) tied to Odyssey has been deployed to all Community Corrections agencies. Court Technology will continue to support those agencies and deploy to other court-related community supervision agencies such probation.
- g) Indiana Criminal Justice Institute** – Devon McDonald reported the criminal code study and the annual JRAC report were submitted as required and available on the ICJI website. Mr. McDonald thanked the Council members for the data contributed to the report and indicated the report is smaller than previous years, condensed from 200 pages down to approximately 31 pages. Other ICJI projects such as the data transformation are moving along with more to report at the next meeting.
- h) Indiana Judges Association** – Judge Mark Spitzer reported IJA has not met since the last JRAC meeting. Currently local judges are operating remotely when possible at the direction of the Chief Justice. In addition, most counties have suspended jury trials until January of next year which has impacted jail populations. Members of IJA are addressing these concerns as they anticipate dealing with COVID-19 for the foreseeable future until the vaccine is widely distributed.

- i) **Indiana Association of Community Corrections Act Counties** – Ralph Watson thanked Christine Blessinger and DOC for the quick turnaround on the Community Correction grants to local departments. No additional information to report.
- j) **Indiana State Budget Agency** – Kirsten Haney reported the State Budget Agency will be in contact with agencies over the next few weeks which do not have budget hearings scheduled to let them know about finalized budgets.
- k) **Indiana Public Defender Commission** – Mark Rutherford reported the Commission’s priority is to ensure they are fully funded so counties can receive the services they are expecting in terms of reimbursements. In addition, Mr. Rutherford reported Sen. Ford intends to file a bill in the Senate for misdemeanor reimbursement for public defenders. A document was shared outlining the benefits of misdemeanor reimbursements which will be provided via email to members following the meeting. The next Commission meeting is being held on December 16, 2020 and members of the public are welcome to attend to obtain public opinion to assist in making best decisions as possible with the Commission’s mandate.
- l) **Governor** – No report.

9. **Next meeting date.** The next Council meeting is January 29, 2021 at 1:00 p.m.

Respectfully submitted,

Angie Hensely-Langrel

Office of Court Services